

**Office of the Independent Police Monitor**

**City of New Orleans**

# **2014 Annual Report**



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**Independent Police Monitor**

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# THE OFFICE OF THE INDEPENDENT POLICE MONITOR (OIPM)

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## Mission and Responsibilities

The Office of the Independent Police Monitor (OIPM) is a civilian police oversight agency currently operating out of the Office of the Inspector General (OIG). The OIPM is a city agency, but is independent of the New Orleans Police Department (NOPD) and the elected officials who govern the City of New Orleans.

The mission of the OIPM is to improve police service to the community, citizen trust in the NOPD, and officer safety and working conditions. The OIPM works to ensure the accountability, transparency, and responsiveness of the NOPD to the community it serves.

Among other duties, the OIPM monitors and reviews major uses of force, including Officer Involved Shootings (OIS), and the NOPD's complaint intake, investigation and discipline system. The OIPM expects to have walk-in visitors on a daily basis, as well as scheduled meetings with the public and police officers.

Through extensive community outreach, the OIPM encourages constructive and informed public dialogue about systemic issues of police policy and police reform.

## Staff

The OIPM's office consists of a staff of five: the Independent Police Monitor, the Deputy Police Monitor, the Executive Director of Community Relations, and the Mediation Coordinator. Additionally, the OIG provides the OIPM with an Office Manager position for essential office management tasks.

Additionally, over 30 local volunteers assisted the OIPM at various intervals throughout the year with duties including complaint intake, legal research, case file review, report writing, and other monitoring activities. These volunteers included pro bono attorneys, student law clerks, subject matter experts and interns. The OIPM acknowledges the contributions of our volunteers, not only in the creation of the OIPM's 2014 Annual Report, but also for their investment in the OIPM and their commitment to the New Orleans community.



## A NOTE FROM THE POLICE MONITOR

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The Office of the Independent Police Monitor (OIPM) is an independent, civilian police oversight agency created in August of 2009. The OIPM's mission is to improve police service to the community, trust in the New Orleans Police Department (NOPD), and officer safety and working conditions. We accomplish this mission through three principles: accountability, fairness and transparency. In order to achieve better accountability, the OIPM monitors the misconduct investigation and adjudication process to assist the NOPD in accomplishing a fair, timely, and thorough accountability system. The OIPM recognizes that accountability includes positive encouragement and therefore the OIPM invests time in gathering officer commendations in addition to complaints about NOPD officers. The OIPM attempts to ensure the NOPD provides fair treatment to all people, regardless of race, religion, economic standing, gender, sexual orientation, or relationship to the officer. The OIPM's commitment to transparency includes an ongoing, open exchange with the community regarding its police department.

As mandated by its ordinance, the OIPM issues public reports on an annual basis. The OIPM considers public reporting one of its greatest responsibilities because only an informed and engaged community can hold the Department accountable to a higher standard.

For the first time under the Consent Decree, the OIPM will not publish the NOPD's annual statistics on complaints, discipline, and reported uses of force. Instead, the OIPM will only publish the OIPM's statistics and observations on complaints, discipline, and reported uses of force. This is a historic year for the NOPD, in that for the first time under the Consent Decree, the NOPD will publish its own annual report which details the number and types of complaints received, discipline issued, and force reported during 2014. This report will be issued by the NOPD's Public Integrity Bureau (PIB) and the Compliance Bureau.

The OIPM is not statutorily permitted to conduct its own administrative investigations, except in regards to police details, but does oversee, analyze, and make recommendations regarding the administrative investigations and disciplinary actions of the NOPD. The OIPM presents the data relating to the OIPM's 2014 activities contained herein for the public's review. The OIPM has not drawn any conclusions about the data in this report, but will later supplement this Annual Report with a statistical analysis of the NOPD's annual report once the OIPM receives the data from the NOPD.



For convenience, we have provided the following highlights from each section of the 2014 Annual Report herein:

### **Community-Police Mediation Program**

After a few years of research and planning, on June 1, 2014, the Office of the Independent Police Monitor (OIPM) launched its Community-Police Mediation Program, a pilot program funded by the U.S. Department of Justice's Community-Oriented Policing Services (COPS). The first cases were referred to Mediation in the last quarter of 2014.

The Community-Police Mediation Program is the first of its kind for New Orleans and one of the first in the southern United States. The program was designed by stakeholders representing a range of government and community-based organizations, including the Police Association of New Orleans and the Black Organization of Police. Established with community and NOPD support, the program builds mutual understanding and improves relationships between residents and officers. Mediation is a voluntary and confidential process that helps residents and officers share their feelings, interests, and concerns about their interaction. It is a non-adversarial, participant-driven process facilitated by two professionally-trained neutral mediators who help the resident and the officer reach a mutually-agreeable solution.

Local commissions and federal bodies required the creation of a community-police mediation program in New Orleans: the Police-Civilian Review Task Force in 2001, the Department of Justice's Civil Rights Division in 2011, the New Orleans City Ordinance creating the OIPM, and the Memorandum of Understanding between the NOPD and the OIPM.

### **2014 OIPM Complaint Intake Activities**

In 2014, the OIPM continued to serve as an alternative complaint intake site. This year the OIPM received and forwarded 84 complaints to PIB.

- The most common complaint allegations received by the OIPM involved Instructions from an Authoritative Source e.g. policy violations, Neglect of Duty, Professionalism, Adherence to Law and [Dis]courtesy.
- Most Neglect of Duty complaints involved a complainant who did not believe the NOPD employee fully responded to or investigated a crime.
- The OIPM received thirty-two complaints related to Fourth Amendment violations: ten allegations of biased policing; six allegations of illegal search and seizure; six



allegations of false imprisonment<sup>1</sup>; and ten allegations of improper stop and detention, for a total of thirty-two allegations.

- In 2014, the OIPM recorded 15 complaints of retaliation, including 4 complaints from police officers complaining of intra-departmental retaliation.
- The OIPM recognizes that retaliation against civilian complainants and officer whistleblowers presents a risk to the public and to the Department. In 2014, the OIPM published a report with preliminary recommendation regarding how the NOPD can strengthen its anti-retaliation policies. The NOPD was receptive to the recommendations and continues to collaborate with the OIPM on producing a strong policy.

### 2014 OIPM Disciplinary Hearing Reviews

When a NOPD employee is found to have violated a NOPD administrative rule, they may be subject to a disciplinary hearing depending on the severity of the rule violation. The OIPM monitors disciplinary hearings that could result in termination. For each hearing, the OIPM conducts a review of the investigation and offers an analysis to the Deputy Superintendent adjudicating the hearing. Our review includes a review of the accused officer's complaint and use of force history.

- There were 17 disciplinary hearings scheduled to be heard in 2014. The total number of Deputy Superintendent disciplinary hearings actually heard in 2014 was 14, compared to 25 Deputy Superintendent disciplinary hearings heard in 2013.
- In 2014, the OIPM observed 11 police disciplinary hearings out of 14 disciplinary hearings presided over by a Deputy Superintendent of the New Orleans Police Department.
- In 2014, the NOPD provided the OIPM the disciplinary investigations for 14 Deputy Superintendent disciplinary hearings and failed to furnish to the OIPM the disciplinary investigation for one disciplinary hearing.
- In 2014, the NOPD failed to provide the OIPM the audio or video evidence associated with three disciplinary investigations.
- In 2014, the NOPD excluded the OIPM from monitoring the full disciplinary hearing two times.<sup>3</sup>
- In 2014, 11 of the disciplinary hearing investigations which were scheduled for hearing, began as rank or department initiated complaints and 6 began as civilian initiated complaints.

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<sup>1</sup> Most false imprisonment complaints relate to an allegation of false arrest.

<sup>3</sup> Further elaboration relating to this exclusion is found on page 42.



- In 2014, two NOPD officers were dismissed. One was dismissed for having committed fraud involving the working of paid details and the second NOPD officer was dismissed for committing a use of force incident against a civilian.
- Four NOPD employees resigned while under investigation.
- The OIPM has observed that to achieve the most thorough and complete disciplinary decision the Deputy Superintendent should ask for and weigh the opinion of the OIPM and the City Attorney personnel (if present) on evidence sufficiency, risk analysis, constitutional law, and other involved issues. This approach also increases the transparency of the process.
- NOPD employees who faced Deputy Superintendent disciplinary hearings, violated the following administrative rules (in order of most to least): Failing to follow written or verbal instructions; failing to follow the law; and professionalism.

### **2014 OIPM Use of Force Monitoring Activities and Critical Incident Response**

The OIPM continued to monitor NOPD Use of Force incidents, including the most serious incidents of Use of Force which are Critical Incidents. While numerically a smaller percentage of the OIPM's case monitoring and review functions, investigations of Critical Incidents are the OIPM's highest priority. While on the scene of Critical Incidents, the OIPM collected information regarding the involved officers' conduct during the Critical Incident and the investigative procedures that followed the Critical Incident.

- Seventeen Critical Incidents occurred in 2014. The OIPM arrived at the crime scenes of 11 Critical Incidents with sufficient time to collect OIPM observations of the crime scene data.
- Eleven of these Critical Incidents involved the firing of an officer's firearm as compared to 2013, when 13 of the Critical Incidents involved the firing of an officer's firearm.
- The largest number of Critical Incidents, four, occurred in the 5<sup>th</sup> and the 8th Districts. There were no Critical Incidents in the 1st District.
- In four of the 17 Critical Incidents, police officers sustained injuries but there were no fatal injuries.
- In 4 of the Critical Incidents a civilian died, including one civilian who sustained a self-inflicted fatal gunshot wound and one civilian who may have died before the NOPD arrived at the crime scene. In 9 of the 17 Critical Incidents, a civilian was injured.
- The OIPM identified concerns about the following: NOPD's notification of the OIPM, control of the Critical Incident crime scene, the sequestration of involved officers, the force used by officers, the tactics used by officers, and the possible endangerment of bystanders.



- The Rank of 'Police Officer'<sup>4</sup> used deadly force the most often, as would be expected. Most patrol officers are of this rank.
- This year the OIPM will not publish the NOPD's annual statistics on (non-Critical Incident) reported uses of force. Instead, for the first time under the Consent Decree, the NOPD will publish its own annual reports which detail the number and types of force used by its officers.

### 2014 Community Engagement

With events like the shooting death of Michael Brown and the death by asphyxiation of Eric Garner, the entire country has been engaged in discussions of police accountability and police reform. OIPM recognizes its obligation to contribute to the larger discussion and to learn about and employ the most effective practices available in the police oversight field.

- Thus 2014's outreach focused, not only on local outreach but also on national and international discussions about the future of policing and police reform.
- The OIPM participated in 81 outreach events in 2014, including presenting recurring Rights and Responsibilities trainings at the Day Reporting Center and Liberty's Kitchen.

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<sup>4</sup> This includes the rank of Police Officer I, Police Officer II, Police Officer III, and Police Officer IV.



## 2014 YEAR IN REVIEW

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### Change in Leadership at the NOPD

Superintendent Michael Harrison replaced outgoing Superintendent Ronal Serpas in August 2014 as head of the NOPD. With Superintendent Harrison's appointment, the Deputy Superintendents who headed the Investigations and Support Bureau (ISB) and the Field Operations Bureau (FOB) were also replaced. Deputy Superintendent Robert Bardy replaced outgoing Deputy Superintendent Daryl Albert to head the FOB. Deputy Superintendent Rannie Mushatt replaced outgoing Deputy Superintendent Daryl Albert who had been interim Deputy Superintendent over ISB after outgoing Deputy Superintendent Kirk Bouyelas left the NOPD to work for the Orleans Parish District Attorney's Office.

### NOPD Consent Decree

In May 2010, the Department of Justice (DOJ) initiated a comprehensive investigation into NOPD operations, including the NOPD's recruitment, training, supervising, and disciplinary processes.<sup>5</sup> Released in March 2011, the principal finding recognized by the DOJ investigation was that the NOPD had engaged in widespread individual and structural patterns of misconduct, violating federal and state law.<sup>6</sup>

Throughout 2011 and 2012, the DOJ and the City Attorney's office negotiated the terms of the Consent Decree between the DOJ and the City of New Orleans. The Consent Decree, hailed as one of the most detailed and comprehensive consent decrees in the nation, was signed by the City of New Orleans and the United States Department of Justice on July 24, 2012.<sup>7</sup> The November 10, 2010 Memorandum of Understanding between the NOPD and the OIPM was incorporated by reference into the Consent Decree.

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<sup>5</sup> Assistant Attorney General Thomas E. Perez at a Press Conference to Announce NOPD Investigation Findings  
<http://www.justice.gov/crt/opa/pr/speeches/2011/crt-speech-110317.html>.

<sup>6</sup> *Investigation of the New Orleans Police Department*  
[http://www.nolaog.org/uploads/File/All/doj\\_report\\_110317.pdf](http://www.nolaog.org/uploads/File/All/doj_report_110317.pdf).

<sup>7</sup> See, <http://new.nola.gov/mayor/press-releases/2012/20120724-mayor-landrieu,-justice-department-announ/> and <http://www.justice.gov/opa/pr/2012/July/12-ag-917.html>.



On January 11, 2013, the Honorable Susie Morgan, Judge of the United States District Court for the Eastern District of Louisiana, entered an order approving the Consent Decree. The City of New Orleans' Motions to Stay and to Vacate the Consent Decree, were denied and the Consent Decree became effective on August 9, 2013.

The District Court coordinated one public hearing in 2014, which was open to the public to attend. This public hearing related to the use of NOPD officer-worn body cameras. This public hearing occurred in U.S. District Court and allowed for comment from the Consent Decree Judge, the Honorable Susie Morgan as well as the parties to the Consent Decree.

### **Office of Consent Decree Monitor**

The Consent Decree Monitor (CDM) is a Court-appointed team responsible for observing and reporting the policy development, training, and implementation of practices by the NOPD as prescribed in the court-ordered Consent Decree. The role of the Monitor is explicitly governed by the terms of the Consent Decree under the oversight of the Court. The CDM is made up of: Jonathan Aronie, primary monitor; David Douglass, Deputy Monitor; Dennis Nowicki, Deputy Monitor; Theron Bowman; Robert McNeilly; Mary Ann Viverette; Geoffrey Alpert; and Alejandro del Carmen.

The OIPM began meeting with various members of the Court Monitoring team in August of 2013. In 2014, the OIPM regularly met with the head of the Court Monitoring team, Jonathan Aronie, as well as other members of the Court Monitoring team. In 2014, the OIPM and the OCDM initiated a joint project reviewing the NOPD's classification of racial profiling complaints.

The Court Monitoring Team had three public hearings in 2014, presenting their quarterly reports. At the Court Monitoring Team public hearings, members of the public were allowed to make public comment.

### **Compliance Bureau**

The NOPD Compliance Bureau includes the Information Systems Section, Performance Standards Section, Policy Standards Section, and the Consent Decree Implementation Section.

The Consent Decree Implementation Section of the NOPD Compliance Bureau serves as the liaison between the City of New Orleans, including the Police Department, and the United States Department of Justice and the Office of the Consent Decree Monitor. The Consent



Decree Implementation Section of the NOPD is required to coordinate compliance and implementation actions and facilitate the sharing of data, documents, materials and access among the various personnel and parties related to the Consent Decree.

### **United States Attorney Criminal Justice Coordination Group**

Pursuant to paragraph 430 of the Consent Decree, the OIPM regularly attends and participates in the United States Attorney Criminal Justice Coordination Group. This group includes command-level NOPD officials, representatives from the Orleans Parish District Attorney's Office, municipal and state court judges, the Orleans Public Defenders, the Federal Bureau of Investigation (FBI), the United States Attorney's Office (USAO), and the OIPM. The group is convened by the USAO and meets monthly to share regular feedback regarding the quality of NOPD arrests and indicia of police misconduct; to refer specific allegations of misconduct for investigation; and to receive an update on the status of previous referrals.

In 2014, the OIPM or other members of the group raised the following issues in front of the working group<sup>9</sup>:

- The multitude of incident numbers (Item Numbers) which may attach to a particular incident and which may cause Body Worn Camera (BWC) video to be attached to an incident number which is not linked to the main incident number.
- Fourth Amendment issues, including the lack of specific articulable facts in the "gist" of arrest reports or summonses. The articulable facts determine whether or not probable cause exists for an arrest or summons.
- Officers using police jargon in reports as opposed to plain language.

The NOPD's Compliance Bureau, the NOPD Public Integrity Bureau (PIB), and the NOPD Training Academy command staff are present at these meetings. Their job is to take the issues learned from the working group and shape NOPD policy to address any shortcomings identified by the group. Additionally, some matters brought up in the United States Attorney Criminal Justice Coordination Group were referred to PIB for investigation.

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<sup>9</sup> The OIPM as well as all other members of the Coordination Group signed confidentiality agreements, which prevent the disclosure of information outside of the member's duties under law. The OIPM therefore presents this information as required by its ordinance.

## 2014 Major Incidents and Actions

### Officers Seriously Injured in the Line of Duty

In 2014, one New Orleans police officer, Officer Jonathan Smith, was shot in the line of duty, surviving his injuries. Smith was hospitalized with serious injuries, including a bullet lodged near his spine. The OIPM responded to and monitored the crime scene where Smith was shot. Part of the OIPM's mission is to improve officer safety and working conditions. The OIPM responds to the scene of many incidents in which officers' lives are threatened. The OIPM believes that if officers are taught to follow best practices in police tactics, their lives are less at risk, which also makes the public safer. The OIPM will continue to gather data regarding officer tactics and training in order to report their recommendations and conclusions to the public and to NOPD command staff.

#### Hollygrove

On February 16, 2014, NOPD eight year veteran Officer Jonathan Hirdes shot and killed Keith Atkinson while Hirdes was responding to a "shoplifting" call from a shop clerk in the Hollygrove neighborhood. Keith Atkinson, a father of three was alleged to have brandished a gun in his exchange with NOPD Officer Hirdes. A .45 caliber gun was found next to Atkinson's body at the scene of the shooting. Mr. Atkinson was shot a total of four times by NOPD Officer Hirdes. Officer Hirdes fired his weapon a total of 15 times during the incident. Later the store manager admitted Atkinson was not the shoplifter about which the store clerk had called the NOPD.

The OIPM is required to monitor all critical incidents where a civilian dies in NOPD custody. Thus, the Police Monitor was on the crime scene after Keith Atkinson was shot, creating an independent report of the OIPM's observations.

In July 2014, Orleans Parrish D.A. Canizarro closed its investigation into Hirdes actions in shooting Atkinson, determining that the case did "not merit prosecution."

#### Armand Bennett

On August 11, 2014, OIPM responded to an officer involved shooting in the fourth district. Armand Bennett, the subject of the Officer Involved Shooting had been shot in the head during a traffic stop but survived. Bennett's attorney raised concerns that there was no apparent reason for the use of force as well as raising concerns that body camera footage of the event



was initially absent. OIPM responded to the initial scene, monitored both the involved officers' and Mr. Bennett's interview as well as reviewing physical evidence.

### Wendell Allen Case

On March 7, 2012, NOPD Officer Joshua Colclough, a four year veteran of the NOPD, shot and killed Wendell Allen, who was unarmed, during the service of a search warrant. Wendell Allen was an African American college student inside the house where Officer Colclough and his NOPD team executed a search warrant. On Friday, August 16, 2013, Colclough pleaded guilty to manslaughter and was sentenced to four years in prison.

The OIPM is required to monitor all critical incidents where a civilian dies in NOPD custody. Thus, the Police Monitor was on the crime scene after Wendell Allen was shot, creating an independent report of the OIPM's observations. The Deputy Police Monitor monitored NOPD interviews of officers and witnesses. While monitoring the NOPD interviews, the Deputy Police Monitor became aware of the existence of a video, previously undiscovered, which she brought to the attention of the Deputy Superintendent of PIB. The OIPM then worked closely with PIB to ensure that the video was taken into evidence. The District Attorney, in releasing this video after Colclough's plea, announced that "it was clear there was no justification for the shooting." In 2014, the NOPD had its "Use of Force Review Board" into the Allen shooting. According to the NOPD Consent Decree, the NOPD is required to convene a Use of Force Review Board "to review all serious uses of force and other Force Investigation Team investigations" Out of the Wendell Allen Use of Force Review Board came several training recommendations, including those on better tactics in executing a search warrant. The NOPD did not find any NOPD employee involved in the Wendell Allen case in administrative violation of internal NOPD rules.

### The Henry Glover Trial

On August 15, 2014, Former New Orleans Police officer Gregory McRae was re-sentenced to 17 years in prison for burning the body of Henry Glover who had been shot by fellow officer, David Warren, four days after Hurricane Katrina. McRae is the only NOPD officer involved in the incident who was ultimately sentenced to time in prison.

In June 2010, a grand jury indicted five NOPD officers, in the September 2, 2005 death and subsequent cover-up of Henry Glover. Glover was shot by NOPD Officer David Warren. Glover's body was set afire by NOPD Officer Gregory McRae in a vehicle taken from a civilian by NOPD



officers. Warren, the officer who shot Glover, was acquitted at a second trial after originally being sentenced to 25 years in prison. Lieutenants Robert Italiano (accused of covering up Glover's killing by authoring a false report) and Dwayne Scheurmann (charged with assaulting civilians who tried to help Glover after he was shot) were acquitted at a 2010 trial. The case against Lieutenant Travis McCabe for perjury, obstruction of justice, and giving false statements, was dropped by the U.S. government after McCabe's conviction was thrown out by the federal judge presiding over the case. McCabe is back on active duty for the NOPD at this time.

### **OIPM Retaliation Report and Public Forum**

Following the publication of the OIPM's Retaliation Report in the autumn of 2014, the OIPM hosted a community forum on the issue of NOPD retaliation on October 20<sup>th</sup> 2014 in New Orleans City Council Chambers. The purpose of the forum was to create an opportunity for community members to further develop the Department's new retaliation policy by recounting their experiences of retaliation and offering suggestions that would protect them from retaliation when reporting police misconduct. Former whistleblowers from within the Department recounted the importance of such protection, and victims of past NOPD retaliation provided specific recommendations for change. In addition to several NOPD officers who spoke at the forum, Deputy Chief Arlinda Westbrook and Superintendent Harrison pledged their commitment to work with the OIPM to further develop the retaliation policy, and to immediately implement a written order of no contact between community members alleging retaliation and the involved officer. Since the forum, the OIPM has been monitoring an increased number of complainants of intra-departmental retaliation at NOPD.

### **Kim Groves' Sacrifice Recognized and Honored**

Each October, Jasmine Groves holds a memorial for her late mother killed by an NOPD officer for filing a complaint against him. OIPM has been supporting this memorial that honors Kim Marie Groves and a host of other families fighting for greater police accountability after losing a loved one to police corruption. In 2014, Kim Marie Groves' ultimate sacrifice – being killed for reporting misconduct – was recognized and honored through a municipal proclamation presented by City Councilperson Jason Williams.





## Special Victims Report

In November 2014, the Office of the Inspector General (OIG) released a public letter detailing the findings of its audit of NOPD's Special Victims Section identifying five detectives who appear to have not adequately investigated alleged sex crimes and child abuse. Following the announcement of a special task force to reinvestigate these crimes, the OIPM sent a letter to the NOPD and the New Orleans City Council highlighting recurring issues found in related community complaints and urging a more comprehensive, victim-centered approach to the issue.

## Ferguson Related Protests

Following the announcement in Ferguson, Missouri that criminal charges would not be filed in the fatal police shooting of Michael Brown, some residents of New Orleans took to the streets to participate in a national dialogue on race and police violence. New Orleans based-protests continued when, in the state of New York, a Staten Island Grand Jury declined to indict the officer who fatally applied a prohibited chokehold to Eric Garner, an unarmed African-American man whom police believed was selling untaxed cigarettes. Several local "die-ins" were staged in December, including one outside New Orleans Gallier Hall and another at Canal Place, during which participants sought to call attention to the devaluation of African-American life and the need for police reform.

## Highlights from NOPD's Budget Presentation

In his annual presentation to the City Council, the Superintendent of Police, Michael Harrison provided, amongst other items, the following information to the City Council regarding the NOPD<sup>10</sup>:

- NOPD and Consent Decree funded at \$2.6M above 2014 level, which includes funding for the Early Warning System, in car and body worn cameras, as well as a Citizen Satisfaction Survey.
- \$4.2M to fund 5% pay raises for all officers
- Funding for 150 additional recruits
- COPS Grant will cover 15 recruits o Additional \$1.7M increase in overtime above 2014 budget (or additional recruits if available) o Consent Decree - \$1.6M increase

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<sup>10</sup> <https://www.nola.gov/getattachment/Mayor/Budget/2015-Proposed-Operating-Budget-Presentation.pdf/> dated October 15th, 2014.

- \$12.3M budgeted for consent decree between GF and FEMA
- \$500K for recruiting and marketing
- Civil Service - \$312k for NOPD Recruiting Support



## 2014 COMMUNITY-POLICE MEDIATION PROGRAM

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The New Orleans Community-Police Mediation Program is a free service provided to community members and the New Orleans Police Department. Mediation is a confidential, structured process where civilians and police officers meet with two trained, neutral mediators to address the issues raised in a complaint through dialogue and determine solutions to their issues. Participation in mediation is voluntary for both complainants and officers.

### **Mediation Is:**

- A voluntary and confidential process. Community members and officers share how their interaction made each other feel.
- A process by two neutral and professionally-trained mediators.
- A participant-guided process that helps the community member and the officer come to an agreeable solution to create mutual understanding and improve relationships.

### **Mediation Is Not:**

- A process to say who is right or wrong. No evidence is needed. The mediator is not a judge and does not present their thoughts on the issue.
- A process where people are forced to shake hands or make-up. The role of the mediators is to be a neutral third party.
- A punishment process. The community member and the officer are in charge of their own process and outcome. It is not decided by an outside agency or person.
- A legal process. There is no appeal because mediation is on a voluntary basis.

### **Commencement of the New Orleans Community-Police Mediation Program and Funding**

On June 1, 2014, the OIPM launched its Community Police Mediation Program, a pilot program funded by the Department of Justice's Community-Oriented Policing Services (COPS). The Mediation Program started with community and NOPD support to build mutual understanding and better relationships with community members and NOPD officers. Mediation resolves issues that community and police may have about their interaction with each other while allowing both people to feel most fully heard and play an active role in finding a solution together.



The OIPM’s Mediation Program Coordinator joined the OIPM team on June 1, 2014 and continued with the creation and development of the program.

In December of 2014, the OIPM was notified that it was a recipient of a grant from Baptist Community Ministries to continue the Community-Police Mediation Program through May 2017.

### How Does Mediation Differ from the Traditional Complaint Investigation Process?

**Figure 1:** Mediation vs. traditional complaint investigation process.

Traditional Complaint Investigation Process	Mediation Process
<ul style="list-style-type: none"> <li>• Adversarial</li> <li>• Top-down decision</li> <li>• No participatory role of the civilian and police officer beyond the initial interview</li> <li>• Residents receive a letter after the fact and are usually not informed about what the investigation entailed that led to the result</li> </ul>	<ul style="list-style-type: none"> <li>• Collaborative</li> <li>• Participants decide on the outcome</li> <li>• Both the officer and the community member have an opportunity to share, be heard, and play an active role in the outcome</li> <li>• Both participants have equal access to the process and outcome</li> </ul>

### Training of Mediators

In June of 2014, twelve community members with existing conflict resolution experience were trained as Community-Police Mediators in a 32-hour advanced training. In the same month, to expand the diversity of the pool of mediators to more non-professionals, eight community members with lessor mediation experience received 28 hours of basic mediation training so they could later become community-police mediators. Mediators continued to receive at least three hours of in-service training opportunities every month after the initial training.



In 2014, training partnerships were built with Community Mediation Maryland, Community Mediation Services of New Orleans, and Loyola University College of Law.

### **Which Types of Complaints May Be Mediated?**

The Public Integrity Bureau determines which complaints are sent to the Mediation Program. The Mediation Program then reviews the case for eligibility and determines the appropriateness of the participants for mediation. The types of complaints that the NOPD policy currently allows for mediation are those that are related to professionalism, discourtesy, or neglect of duty. Criteria used to determine appropriateness for mediation includes whether both participants can share honestly about the interaction, whether both feel safe sharing with each other, and whether a person fears retaliation from the other person. Both the officer and the community member must give their written permission for the voluntary process. If the community member or the officer does not agree to mediate or if a date to mediate is not agreed on, the complaint is refiled with the Public Integrity Bureau to go through the traditional complaint investigation process.

Complaints such as unreasonable use of force, unlawful search, discriminatory policing, and criminal allegations continue to go through the regular complaint investigation process by the Public Integrity Bureau.

### **Cases Referred to Mediation**

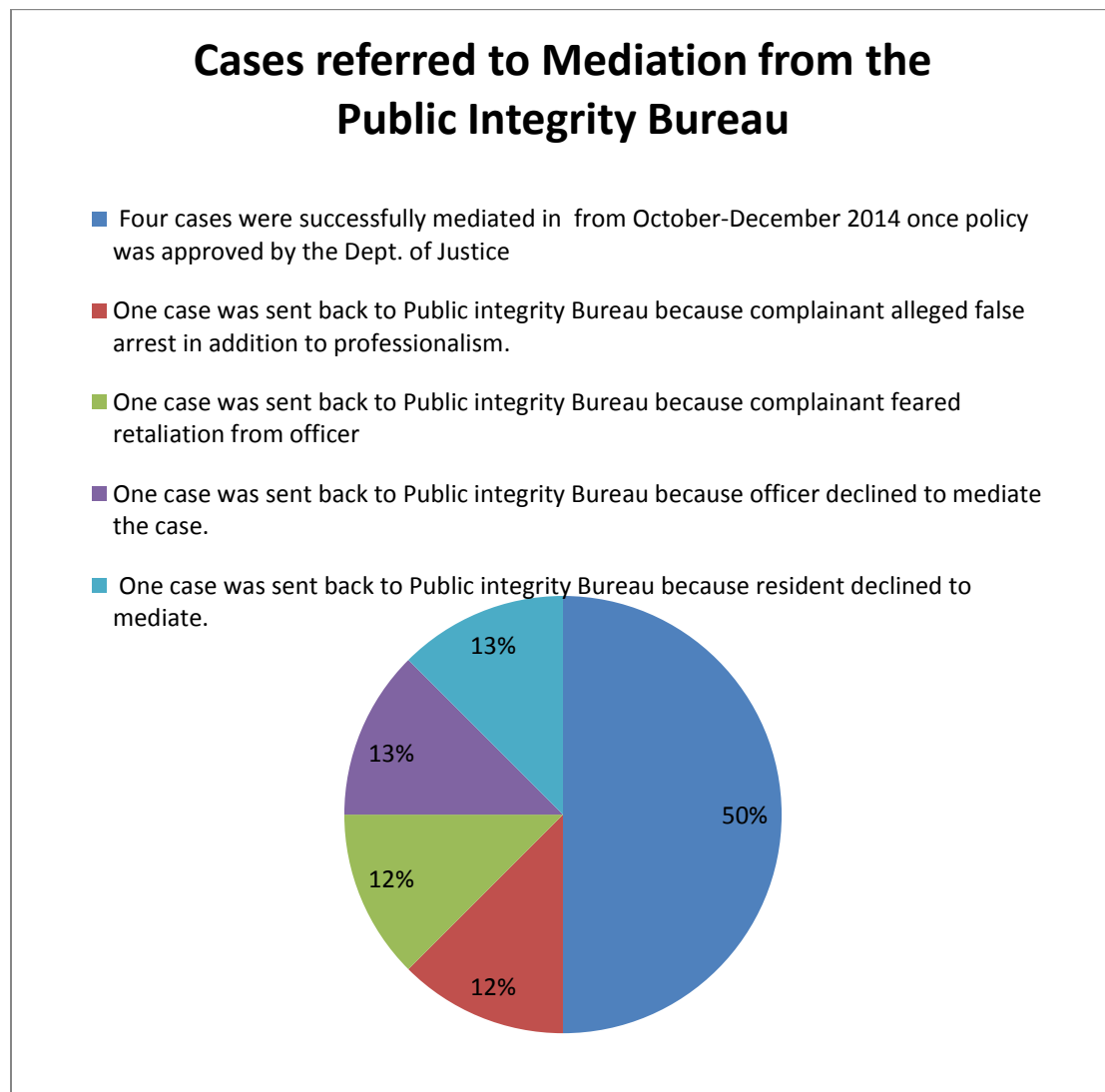
Of the eight cases referred to the Community-Police Mediation Program from the Public Integrity Bureau in 2014, four cases were successfully mediated from October-December of 2014 after the policy was approved by the Department of Justice and the federal judge over the Consent Decree process.



Other cases were sent back to the Public Integrity Bureau for traditional investigation because one complaint also alleged false arrest, one complainant feared retaliation from the officer, one officer declined to mediate the complaint, and one resident declined to mediate the complaint.

The following table represents the outcome of all eight cases referred to mediation.

**Figure 2: Cases referred to mediation.**



### Post-Mediation Feedback

The Louisiana Public Health Institute (LPHI) provided third party independent data collection for the Community-Police Mediation Program. LPHI's evaluation findings from all of the mediation sessions conducted in 2014 through pre- and post-mediation session surveys revealed that police officers and



civilians believe that the mediation sessions were unbiased, helped resolve issues between police officers and residents, and are a better option than formal disciplinary action against officers. All police officers and civilians appreciated having the opportunity to speak with one another and found the mediation to be successful.

After the mediation session, all civilians agreed that the session helped them gain a better understanding of policing. All police officers agreed that the mediation session helped build mutual respect between them and the civilian, that mediation is a good way of resolving disputes between civilians and police officers, and that they would agree to mediations in the future. Most civilians agreed that if they had information about a crime or incident in their neighborhood, they would share that information with the police officer who participated in the mediation. Most civilians also believed the mediation session helped build mutual respect between them and the officer and would agree to future mediations of complaints with officers. Most officers agreed that mediation helped them gain a better understanding of the civilian's point of view.

#### **Comments from Community Members and Police Officers after Mediation Sessions**

- *"Getting to have both parties sit down and work through things to find out how we can better things in the future, whether it be something that I made a mistake in or whether it's something that they can do differently." (NOPD officer)*
- *"I appreciated the opportunity to speak to [the officer] directly. It's not often that people who work in the system and take advantage of that power, get the chance to actually express your frustrations to them in a calm, safe way so that was a good opportunity." (Civilian complainant)*
- *"Mediation was really effective at moving the discussion forward and delving deeper into the issues." (Community-police mediator)*
- *"It opened my eyes that I should treat the public a little better and communicate with residents in a new way... even though I might be having a bad day. I should remember that they are the victim and that no matter how bad my day is going I should take them into consideration because they are the victim of a crime or something or else they wouldn't be calling the police." (NOPD officer)*
- *"It's better to pretty much get your frustrations out here versus them just trying to write you up for something as miniscule as this incident." (NOPD officer)*

- *“Mediation fulfilled the need of the resident and officer to fully express themselves.”*  
(Community-police mediator)
- *“Giving each other a fair turn or shot to go back and forth with questions and answers and get a rebuttal and build on each question was good.”* (NOPD officer)
- *“Well, it let me speak my feelings and for the person that I offended, it let her get her feelings out also, and I think we both shared our feelings and it may have opened both of our eyes as to what’s going on as far as the police and the public goes.”* (NOPD officer)
- *“It was helpful getting the average person whose not the police to understand your side as a police officer as well as get you to understand their feelings because a lot of times when you’re interacting with people on the street, they don’t really express how they’re feeling until after. It’s like they want to say so much but everything doesn’t come out and I guess because people’s emotions are all over the place so it just gives you a chance to really understand.”* (NOPD officer)
- *“I think they both walked away in a much better place than they walked in.”*  
(Community-police mediator)

After the first twenty mediation sessions, the OIPM will publish a report to more closely examine the Mediation Program’s data and feedback from officers and residents to address the program’s successes and growing edges. The NOPD policy on mediation of civilian complaints will be reviewed and changed as needed to make the program most effective.

### **Collaboration with the New Orleans Police Department**

The Office of the Independent Police Monitor’s mandate and the NOPD-OIPM *Memorandum of Understanding* require the OIPM to create and maintain a mediation program jointly with the NOPD. This joint project with the NOPD allows the Public Integrity Bureau to reallocate hundreds of investigative hours to cases involving more serious allegations of police misconduct or cases that cannot be mediated.<sup>11</sup>

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<sup>11</sup> As of August 2014, of the 445 complaints investigated by the Public Integrity Bureau, 90 were complaints of unprofessionalism and 23 were complaints of discourtesy.



The OIPM has invited and engaged the NOPD with the planning and implementation of the mediation project at every step of the way. Below are some of the ways we have collaborated with NOPD:

- The OIPM reached out to and engaged with NOPD leadership and all three police unions to create the mediation program and draft NOPD Policy 1025.
- In 2014, education about the mediation program was presented to police officers at all eight district stations through a series of 24 roll call meetings.
- Four Community Coordinating Sergeants from the districts with the highest number of civilian complaints attended the 32-hour mediator training in June of 2014.



## 2014 OIPM COMPLAINT INTAKE ACTIVITIES

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### The OIPM Complaint Process

The OIPM serves as an alternate complaint intake site for those who prefer not to complain directly to PIB or to other NOPD supervisors about the specific conduct of NOPD employees. Once the OIPM receives a complaint, it forwards it to PIB for inclusion in the complaint management system<sup>12</sup> and for investigator assignment. If a complainant requests, the OIPM will also monitor PIB investigations of complaints not filed with the OIPM.

The OIPM writes the complaint in the form of a letter to PIB, and specifies within its letter which NOPD administrative policy, statute, city ordinance, or constitutional provision the NOPD employee may have violated. In its letter to PIB, the OIPM includes information from the accused officer's disciplinary history for the last 5 years and makes a recommendation on whether the specific NOPD officer should attend the Professional Performance Enhancement Program (PPEP)<sup>13</sup>.

The OIPM has entered into community partnerships with organizations to conduct complaint intake off-site as well. In an effort to reach the widest possible audience, the OIPM has had its complaint forms and procedures translated into Spanish and Vietnamese.

PIB does not investigate all complaints filed with NOPD or the OIPM. The OIPM's Mediation unit handles some cases. When a case is suitable, both the complainant and the officer can opt for mediation, as an alternative to the traditional investigation process. A mediation session is held in a private community space (community center, library, church) with two trained, experienced mediators who provide the participants with the opportunity to address their perspectives on their encounter and engage in a meaningful dialogue to better understand each other's positions.

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<sup>12</sup> IAPro is the name of the internal affairs case management software shared by PIB and the OIPM. PIB and the OIPM maintain separate versions of the system. The OIPM has access to PIB's version of IAPro, but PIB does not have access to the OIPM's internal version.

<sup>13</sup> See Section Entitled ["PPEP and EWS"](#).

## **2014 Contacts with the Public and Complaints Taken by the OIPM**

### **Contacts, Complaints and Inquiries**

The OIPM received 176<sup>16</sup> contacts in 2014 regarding officer behavior from the public and officers, up from 125 contacts in 2013. Of the reports received, the OIPM forwarded 84 complaints to PIB for investigation. The OIPM also made two inquiries to PIB about their review and evaluation of an officer's conduct.

The OIPM did not forward to PIB complaint allegations that had been previously reported to PIB by the complainant, complaint allegations that did not rise to the level of administrative or criminal misconduct, or complaint allegations for which the complainant did not complete the intake process.

### **Crime Victims Liaison**

The OIPM also acted as a liaison between victims of crime and NOPD in 21 different cases. The OIPM's liaison work included assisting victims in communicating with their assigned detectives about witnesses, evidence and the victims' concerns of officers neglecting their duty. In 2014, victim liaison cases included homicides, sexual assaults, and theft.

### **Monitoring Complaint Investigations**

In 2014, the OIPM monitored 33 investigations after receiving requests or deciding on its own to monitor a particular investigation. The OIPM primarily checks the status of cases through the IAPRO system and during PIB's weekly COMPSTAT<sup>18</sup> meeting. In addition, the OIPM may monitor officer and witness interviews, participate in case briefings, and draft legal memos in relation to cases the OIPM monitors.

## **2014 Outcomes of Complaints Taken by the OIPM**

When a member of the public or a police officer makes a complaint against an NOPD officer, PIB is responsible for classifying that complaint. The classification determines whether a formal investigation will take place. DI-1 cases are formal investigations, whereas DI-2, DI-3, NFIM,

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<sup>16</sup> This includes 21 criminal case liaison, 84 complaints, 7 commendations, 29 contact only, 33 case monitoring, and 2 inquiries.

<sup>18</sup> COMPSTAT is a data driven management tool used in a large number of police departments across the country.



NVO, and INFO cases may not include interviews of witnesses and other investigative steps.

PIB provided the classification definitions in the following table in January 2014.

**Figure 3: Classification definitions.**

Type	Description
<b>DI-1</b>	<p>Documentation of the initiation of a formal disciplinary investigation of a complaint from a citizen (third party or anonymous), employee, or observed behavior of an employee which involves an alleged violation of criminal law or a Departmental regulation, order, policy or procedure. Behavior which mandates a DI-I classification:</p> <ul style="list-style-type: none"> <li>• An alleged violation of a Departmental order, policy or procedure, except a violation of a minor nature which can be corrected by simple counseling or minimal intervention by a supervisor (DI-2); (such as reporting for duty violations, uniform wear violations;</li> <li>• An alleged violation which parallels the same behavior documented in three DI-2 citations, all three cited violations having occurred with the 12 months prior to the date of occurrence of the current complaint;</li> <li>• An alleged violation which parallels the same behavior documented in three NFIM investigations, all three alleged behaviors having occurred within the 12 months prior to the date of occurrence of the current complaint;</li> <li>• An alleged violation of a criminal law or an alleged involvement in criminal activity.</li> </ul>
<b>DI-2</b>	<p>Documentation of counseling - When the supervisor becomes aware of an infraction committed by an officer. The action taken must originate from a supervisor's knowledge of an employee's behavior which involves a minor administrative violation of a Departmental order, policy or procedure. The behavior must not severely impair or impact the efficiency of the public service, or the official mission and goals of the Department. This behavior must be considered so minor that it is correctable by simple counseling or minimal intervention by a supervisor.</p>
<b>No Formal Investigation Merited (NFIM)</b>	<p>Documentation to resolve the following types of complaints:</p> <p>(a) Complaints disputing traffic citations, except that allegations of misconduct contained in such complaints (e.g., racial profiling, illegal search, excessive force) will be classified and investigated according to its merits;</p> <p>(b) Complaints alleging a delay in police service such as patrol response or detective follow up, where the preliminary investigation demonstrates that the delay is due to workload. However, if the preliminary investigation discloses that misconduct such as negligence rather than workload caused the delay, the complaint will be classified according to its merits;</p> <p>(c) Complaints regarding off-duty officer conduct of a civil nature, unless the alleged conduct or its effects constitute misconduct or have a substantial nexus to the officer's employment;</p> <p>(d) Complaints in which the preliminary investigation demonstrates that the subject officer does not work for NOPD or where the identity of the subject officer cannot be determined, despite the best efforts of the Public Integrity Bureau (PIB); and</p> <p>(e) Other documentation of an incident as approved by investigating member's Deputy Superintendent.</p>

When PIB's investigation determines, by a preponderance of the evidence, that the alleged misconduct did occur, PIB should issue a disposition of 'sustained'. When the investigation is unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred, PIB should issue a disposition of 'not sustained'. If the investigation determines that the conduct *occurred* but did not violate policy, procedures, or training, PIB should issue a disposition of 'exonerated'. If the investigation determines that the alleged misconduct did *not* occur or did not involve the subject officer, PIB should issue a disposition of 'unfounded'. Each distinct allegation should receive a distinct disposition. NOPD Policy 1020 defines all possible dispositions.

As noted in the table below, among closed complaint investigations, PIB investigated allegations different from the ones forwarded by the OIPM 77 times. Of those 77 times, the allegations investigated were sustained 46 times, and not sustained or ruled unfounded 31 times. The dispositions of the complaints filed with the OIPM in 2014 are as follows:

**Figure 4:** Dispositions of allegations in complaints filed by the OIPM.

OIPM Complaint Dispositions		
Origin of Allegation	Disposition	Number
PIB added or changed the Allegation from the OIPM's original recommendation.	Sustained	46
	Not Sustained	17
	Unfounded	7
	No Violation Observed <sup>19</sup>	7
PIB adopted the allegation originally recommended by the OIPM	Sustained	57
	Not Sustained	76
	Exonerated	32
	No Formal Investigation Merited (NFIM)	30
	Pending	31
	Duplicate investigation	11
	Unfounded	10
	INFO only	9
	Withdrawn	4
	No Violation Observed	4
	<b>Grand Total</b>	<b>341</b>

<sup>19</sup> Policy 1020 states, "PIB shall no longer use the classification of No Violation Observed".

## Allegation Types

Complaints made to the OIPM in 2014 contained the following alleged violations:<sup>20</sup>

**Figure 5: Allegation types.**

<b>Allegation</b>	<b>Total</b>
Instructions from an Authoritative Source (Paragraph 2)	87
Neglect of Duty (Paragraph 4)	73
Professionalism (Paragraph 1)	58
Adherence to Law (Paragraph 1)	55
Courtesy (Paragraph 2)	39
False or Inaccurate Records (Paragraph 2)	16
Discrimination (Paragraph 4)	14
Honesty and Truthfulness (Paragraph 3)	14
Unauthorized Force (Paragraph 6)	13
Citizens Report Complaint (Paragraph 4)	10
Verbal Intimidation (Paragraph 5)	10
Acting Impartially (Paragraph 7)	9
Failure to Report Misconduct (Paragraph 8)	9
Abuse of Position (Paragraph 2)	8
No Violation Observed (NVO)	7
Rules of Procedures (Paragraph 4)	4
Devoting Entire Time to Duty (Paragraph 3)	3
Failure to Cooperate/Withholding Information (Paragraph 9)	2
Use of Department Property (Paragraph 1)	2
Reporting for Duty (Paragraph 1)	1
Acting in Civil Matters (Paragraph 6)	1
Ceasing to Perform before End of Shift (Paragraph 5)	1
<b>Grand Total</b>	<b>436</b>

The five most common complaint allegations were Instructions from an Authoritative Source e.g. Policy Violations, Neglect of Duty, Professionalism, Adherence to Law and [Dis]courtesy. A

<sup>20</sup> Each complaint may contain more than one allegation, e.g. professionalism and unauthorized force. The OIPM's staff took the complainant's allegations and assigned an administrative allegation type based on the NOPD Operations Manual. In some cases, the OIPM may not have received enough information to formulate an allegation.

breakdown of the most common types of crimes alleged and the most common types of neglect alleged can be found in Figures 6 and 7 respectively.

**Figure 6: Breakdown of Adherence to Law allegations.<sup>22</sup>**

<b>Directive</b>	<b>Total</b>
<b>False Imprisonment</b>	9
<b>Illegal Stop and Detention</b>	7
<b>Biased Policing</b>	6
<b>Theft</b>	5
<b>Illegal Search and Seizure</b>	5
<b>Planting Evidence</b>	3
<b>Retaliation</b>	3
<b>Federal Rules of Criminal Procedure</b>	2
<b>HIPPA Protection Violations</b>	3
<b>Battery</b>	2
<b>Aggravated Assault with a Firearm</b>	1
<b>Child Endangerment</b>	1
<b>Payroll Fraud</b>	1
<b>Domestic Violence</b>	1
<b>Reckless Operation of a Vehicle</b>	1
<b>None Specified</b>	5
<b>Grand Total</b>	55

**Figure 7: Breakdown of Neglect of Duty allegations.<sup>23</sup>**

<b>Directive</b>	<b>Total</b>
<b>Failure to take Necessary and Appropriate Police Action</b>	17
<b>Failure to Investigate</b>	10
<b>Failure to Make Written Report</b>	7
<b>Failure to Preserve Evidence</b>	5
<b>Failure to Thoroughly Search for, Collect, Preserve, and Identify Evidence in an Arrest or Investigative Situation</b>	5
<b>Failure to Take Appropriate &amp; Necessary Police Action</b>	2
<b>Sex Crime Victim's Rights: Officer Responsibilities</b>	2

<sup>22</sup> "Adherence to Law" allegations are allegations that an officer may have violated a law or rule contained in the Federal or Louisiana State constitutions, criminal or civil statutes, or ordinances.

<sup>23</sup> "Neglect of Duty" allegations are allegations that an officer may have failed to properly perform his or her function when the officer was required to perform certain duties and assume certain responsibilities.

<b>Failure to Collect Evidence</b>	<b>1</b>
<b>Failure to Respond to All Assignments Promptly</b>	<b>1</b>
<b>Supervisory Responsibility</b>	<b>1</b>
<b>None Specified</b>	<b>22</b>
<b>Grand Total</b>	<b>73</b>

### **Stops, Frisks, Searches and Profiling - Fourth Amendment Protections against Search and Seizure**

In 2014, the OIPM received thirty-two complaints related to Fourth Amendment Violations: ten allegations of biased policing; six allegations of illegal search and seizure; six allegations of false imprisonment<sup>24</sup>; and ten allegations of improper stop and detention, for a total of thirty-two allegations. These allegations were contained in 20 distinct complaints. OIPM also monitored one complaint filed with PIB alleging false imprisonment. The OIPM provides initial allegations to assist PIB, but new information may be collected during the PIB classification period (first 14 days). The allegations are subject to change as the investigation develops. For example, when an investigator speaks to additional witnesses, the complaint allegations may change.

### **Retaliation against Complainants**

Approximately twenty years ago, Kim Groves, a young mother of three had the courage to report police misconduct in her neighborhood. At NOPD officer Len Davis' command, civilian Paul Hardy shot and killed Ms. Groves. The OIPM took the opportunity at the twenty-year anniversary of Kim Groves' death to report on the current state of internal and civilian retaliation in the NOPD. Retaliation against complainants and officers presents a significant risk to the Department and the community it serves. Retaliation is not only illegal and the cause of several open civil suits against NOPD; it also subverts very expensive efforts to reform NOPD and its accountability system. Retaliation prevents people from speaking out against injustice. Because the issue is so important, the OIPM issued a public letter to the NOPD in July 2014 discussing past reports of retaliation and policies that will protect against it. The OIPM also hosted a community forum soliciting community input on that policy. The OIPM has gathered dozens of recommendations and will be presenting them to NOPD in the 2<sup>nd</sup> quarter of 2015.

Out of the 176 contacts with citizens and officers in 2014, 18 contacts contained allegation of retaliation or a fear of NOPD retaliation. From those 18 contacts, the OIPM filed 15 unique

<sup>24</sup> Most False imprisonment complaints relate to an allegation of false arrest.



complaints; monitored 2 cases already filed with PIB, and took information from 2 citizens who chose not to file complaints for fear of retaliation.<sup>26</sup> For civilians, the most common forms of retaliation alleged are harassment, threats, retaliatory police action (issuing citations, arrests, stops, etc.), and discouragement from filing a complaint or NOPD interference with complaint process. The OIPM tracks allegations of past retaliation and concerns about future retaliation when referring a complaint to PIB. Specifically, the OIPM describes alleged retaliatory actions within the body of the complaint, and may additionally request that the subject officer be counseled in writing that the officer is prohibited from retaliating against the complainant.

Of the 15 retaliation complaints, expressing retaliation concerns, four were from officers alleging retaliation. Common forms of inter-departmental retaliation include other NOPD employees filing retaliatory complaints or threatening retaliatory complaints against whistleblowers; reassignment or the threat of reassignment of whistleblowers; interfering with complaint investigations and/or the disciplinary hearing that results from the complaint investigation; refusing to receive complaints or the failure to investigate complaints; and harassment and/or other unprofessional conduct.

The NOPD retaliation policy created in 2013 is awaiting approval or recommendations from the Office of the Consent Decree Monitor<sup>27</sup> and the Department of Justice (DOJ). The OIPM monitored retaliation in 2014 and plans to provide its own final recommendations to NOPD regarding policy and training.

### **Anonymous Complaints**

Complainants occasionally wish to remain anonymous due to their concerns about retaliation. In 2014, 20 out of 176 contacts received by the OIPM involved anonymous complainants. Nine of these twenty individuals ultimately opted to file an anonymous complaint via the OIPM.

### **PPEP and EWS**

The NOPD redesigned and reinstated the Professional Performance Enhancement Program (PPEP) in 2011. In 2014, PPEP provided a 40-hour training session to officers identified as possibly being at risk for misconduct; this program includes a session taught by the OIPM. PPEP involves the use of deterrence tools and training tools.

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<sup>26</sup> The two citizens who opted not to file were making a single complaint.

<sup>27</sup> The Office of Consent Decree Monitor (OCDM) is the monitor that reports to the United States District Court.

For each officer involved in a Critical Incident or complaint made to the OIPM, the OIPM reviews the officer's use of force and complaint history to determine if there is a pattern of force or allegations against the officer. The officer's history will determine if the OIPM will recommend that the officer be included in PPEP training.

In 2014, the OIPM referred NOPD officers to PPEP 30 times. Of those 30 referrals, 28 were unique referrals and two were repeated requests to have two different officers referred to PPEP. The OIPM also recommended pattern analysis<sup>30</sup> for two distinct officers. To the OIPM's knowledge, NOPD did not conduct pattern analysis on either recommended officer. Of the 28 unique PPEP referrals made by the OIPM, 22 did not result in the officer attending PPEP classes. Six of the recommended officers attended PPEP once in 2014, including one of the two officers the OIPM repeatedly referred.

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<sup>30</sup> Pattern Analysis is a comprehensive review of an officers' disciplinary history, evaluations, work product, patterns of conduct and other relevant information to determine the level of risk the officer's conduct presents to him, the department and the public.

## 2014 DISCIPLINARY ACTIONS

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The potential disciplinary actions in any administrative case include: termination, demotion, suspension, letter of reprimand, and counseling from a supervisor. The OIPM recommended to the NOPD that the NOPD include re- training and substance abuse counseling as disciplinary actions where appropriate. Still to date NOPD rules do not allow for mandatory re- training or substance abuse counseling to accompany discipline for a specific offense or where appropriate as an alternative to traditional discipline for a specific offense.

### **Notable Cases - Administrative Disciplinary Investigations in 2014**

- Officer Jayson Germann was dismissed for public payroll fraud in September 2014. An investigation established that Germann worked private security at a supermarket while on the NOPD clock. The OIPM agreed there was sufficient evidence to sustain the charges against Officer Germann. In addition to the payroll fraud for which he was dismissed, Germann had more than 35 complaints lodged against him in the past three years.
- Commander Brian Weiss was suspended after he was found to have acted partially as an NOPD officer and failed to follow instructions as a supervisor. This investigation was brought against Weiss after his wife called 911 as a result of an argument between the Commander and his wife. This suspension followed NOPD's transfer of the commander while he was under investigation. Commander Weiss retired shortly after the NOPD investigation against him was found to be sustained.
- Lieutenant Michael Field retired under investigation after NOPD charged him with failing to adhere to the law relative to simple battery and failing to follow instructions. The investigation into Lt. Field related to his battery against a handcuffed 19- year old Alabama man during Mardi Gras, 2012. At least two NOPD officers reported Lt. Fields misconduct by filing complaints with the NOPD Public Integrity Bureau (NOPD PIB). Additionally, the victim of Lt. Field's battery has filed a civil suit against the NOPD and the City of New Orleans for Lt. Field's actions.

### **Disciplinary Hearings Monitored by the OIPM**

When a NOPD employee is found to have violated an NOPD administrative rule, he or she can be subject to a disciplinary hearing. Where the officer is being investigated for a more serious rule violation and he or she could be dismissed from the department, a NOPD Deputy Superintendent is required to preside over the officer's disciplinary hearing. Each Deputy



Superintendent has a bureau for which he or she is responsible. The Field Operations Bureau (FOB) contains all of the eight police districts and is responsible for conducting all initial criminal investigations as well as responding to all calls for service. FOB has the most NOPD employees out of all the bureaus and the Public Integrity Bureau (PIB) has the least number of NOPD employees out of all of the bureaus. For less serious disciplinary investigations where a NOPD employee is not at risk of being dismissed, a NOPD Commander may preside over the disciplinary hearing. The OIPM attempts to attend all Deputy Superintendent disciplinary hearings but does not attend NOPD Commander disciplinary hearings unless specifically requested to do so.

Superintendent Michael Harrison replaced outgoing Superintendent Ronal Serpas in August 2014 as head of the NOPD. With Superintendent Harrison's appointment, the Deputy Superintendents who headed the Investigations and Support Bureau (ISB) and the Field Operations Bureau (FOB) were also replaced. Deputy Superintendent Robert Bardy replaced outgoing Deputy Superintendent Daryl Albert to head the FOB. Deputy Superintendent Rannie Mushatt replaced outgoing Deputy Superintendent Daryl Albert, who had been interim Deputy Superintendent over ISB after outgoing Deputy Superintendent Kirk Bouyelas left the NOPD to work for the Orleans Parish District Attorney's Office. The Deputy Superintendents who presided over disciplinary hearings in 2014 are: outgoing Deputy Superintendent Daryl Albert, outgoing Deputy Superintendent Kirk Bouyelas, Deputy Superintendent Robert Bardy, and Deputy Superintendent Rannie Mushatt.

**Figure 8: The Deputy Superintendents who presided over disciplinary hearings.**

Bureau	Former Deputy Superintendent	Current Deputy Superintendent
Field Operations Bureau (FOB)	Daryl Albert <sup>32</sup>	Robert Bardy
Investigations and Support Bureau (ISB)	Kirk Bouyelas	Rannie Mushatt
Public Integrity Bureau (PIB)	N/A	Arlinda Westbrook
Management Services Bureau (NSB)	N/A	Stephanie Landry

<sup>32</sup> Outgoing Deputy Superintendent Daryl Albert left FOB to become Deputy Superintendent over ISB for a short while until now Deputy Superintendent over ISB, Rannie Mushatt took over for Albert.

See Figure 9 below for the number of disciplinary hearings each Deputy Superintendent presided over in 2014. There were 17 disciplinary hearings scheduled to be heard in 2014. The total number of Deputy Superintendent disciplinary hearings actually heard in 2014 was 14,<sup>33</sup> compared to 25 Deputy Superintendent disciplinary hearings heard in 2013.

**Figure 9: Number of disciplinary hearings presided over by each bureau.**

Bureau	Number of Hearings
Field Operations Bureau (FOB)	9
Investigations and Support Bureau (ISB)	5
Public Integrity Bureau (PIB)	0
Management Services Bureau (MSB)	0
Total	14

Before a Deputy Superintendent disciplinary hearing occurs, the OIPM reviews the investigations prepared against employees that the NOPD is seeking to discipline. The OIPM conducts a review of these disciplinary investigations based on, but not limited to the following factors:

- Evidence Sufficiency
- Constitutional Law
- Internal Retaliation
- Risk Analysis
- Liability and
- The Police Officer Bill of Rights<sup>34</sup>

The OIPM reviews the NOPD employee who is the subject of the disciplinary hearing, based on, but not limited to the following criteria:

- A Pattern of Similar Past Complaints
- A Significant Number of Past Complaints
- Need for Additional Training
- Whistleblower Status

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<sup>33</sup> Involved Officers resigned prior to three hearings, cancelling the scheduled hearings.

<sup>34</sup> “The Police Officer Bill of Rights” is considered law enforcement’s bill of rights and minimum standards that apply during administrative investigations against officers. The Police Officer Bill of Rights is codified under La. R.S. 40:2531.

Prior to a Deputy Superintendent hearing, the OIPM provides the presiding Deputy Superintendent with an analysis of the investigation. In order to do so, the OIPM reviews the investigation conducted by the NOPD and any audio or video evidence that accompanies the disciplinary investigation. In 2014, the NOPD provided the OIPM the disciplinary investigations for 14 Deputy Superintendent disciplinary hearings. In 2014, the NOPD failed to provide the OIPM, when requested, the audio or video evidence associated with three disciplinary investigations.

The NOPD normally provides the OIPM with formal written notice of all disciplinary hearings. Without formal written notice, the OIPM is not aware of the disciplinary hearing and thus cannot attend. In 2014, the NOPD gave the OIPM formal written notice of 13 disciplinary hearings presided over by a Deputy Superintendent. The NOPD failed to give the OIPM formal written notice of one disciplinary hearing in 2014. In 2014, the OIPM observed 11 police disciplinary hearings out of 14 disciplinary hearings presided over by a Deputy Superintendent of the New Orleans Police Department.

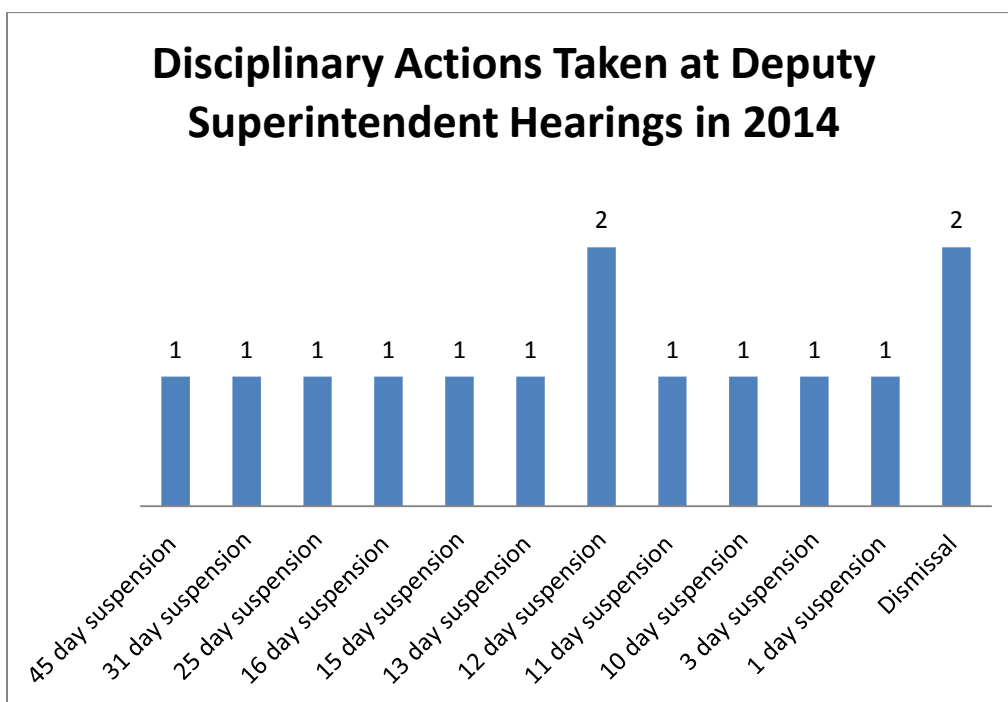
The Deputy Superintendent disciplinary hearings which occurred in 2014 involved the investigations of 14 NOPD employees. However, one disciplinary hearing investigation may involve more two or more NOPD employees accused of the same or related rule violations. One NOPD employee may also be investigated for separate acts in more than one disciplinary hearing. In 2014, one NOPD employee was investigated in two separate disciplinary investigations. Fourteen NOPD employees were investigated in only one Deputy Superintendent disciplinary hearing. One 2014 Deputy Superintendent disciplinary hearing adjudicated two different officers who had acted together to commit various and interrelated rule violations. One 2014 Deputy Superintendent disciplinary hearing would have adjudicated two different officers but one of the officers resigned under investigation (RUI).

The 14 Deputy Superintendent disciplinary hearings which occurred in 2014, involving 14 officers resulted in the imposition of two dismissals and 12 suspensions. One NOPD employee did not have any of the charges against him sustained. The disciplinary actions taken at Deputy Superintendent hearings in 2014 are presented in Figure 10. In 2014, there were less total complaints, disciplinary hearings, dismissals and days of suspension than in 2013. In 2013, six officers were dismissed as compared to two officers dismissed in 2014. In 2013, a suspended officer received, on average, 25 days of suspension. In 2014, a suspended officer received, on average, 16 days of suspension. Eleven officers were suspended in 2014, as compared to 15

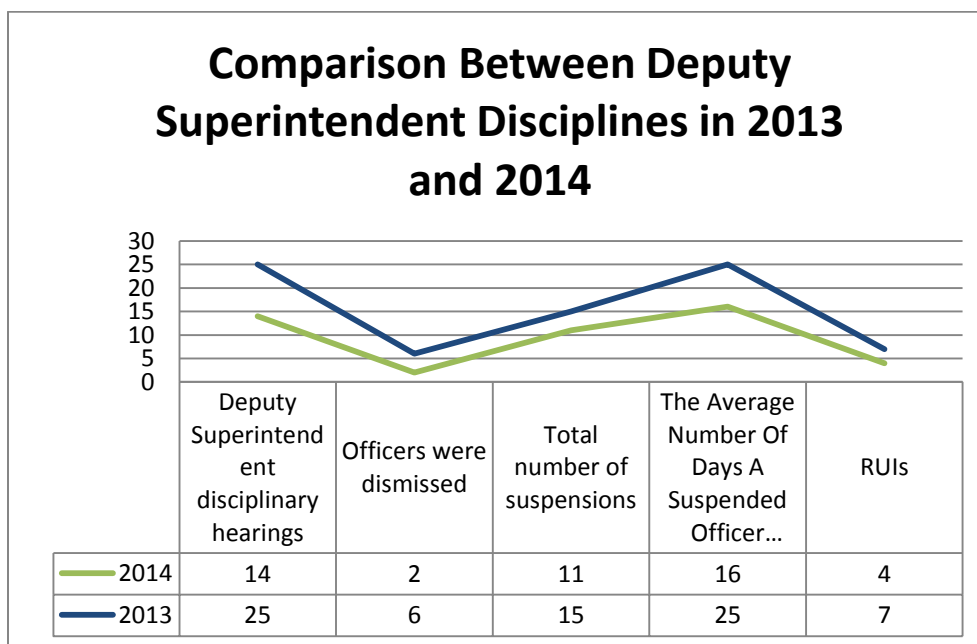


officers suspended in 2013. In 2014, only one officer was found by a Deputy Superintendent at the disciplinary hearing to have not committed any of the offenses for which he was investigated, as compared to three officers who were found to have not committed the offenses for which they were investigated in 2013. In 2014, four NOPD employees resigned while under investigation (RUI) and did not go through with the Deputy Superintendent scheduled disciplinary hearing. In 2013, seven NOPD employees resigned while under investigation (RUI) and did not go through with the scheduled Deputy Superintendent hearing. The comparison between Deputy Superintendent hearing dispositions in 2013 and 2014 are presented in Figure 11.

**Figure 10:** Disciplinary actions taken at Deputy Superintendent Hearings in 2014.

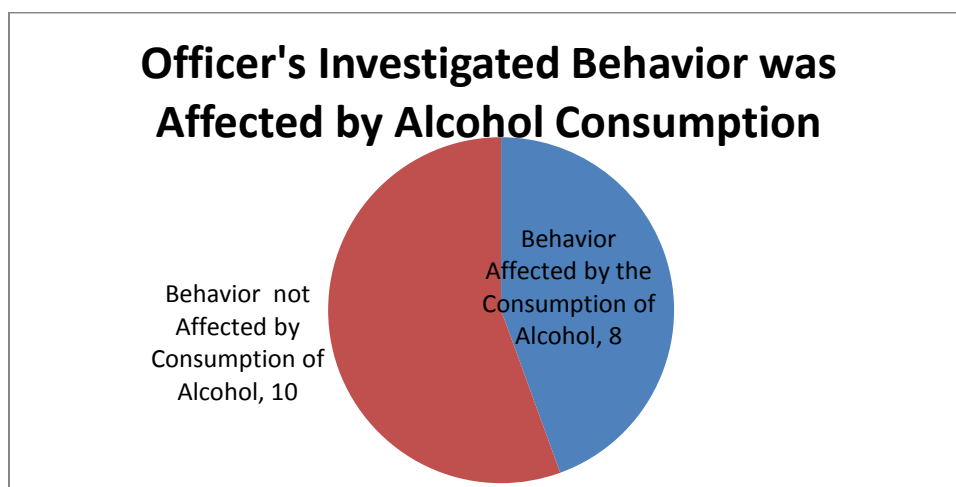


**Figure 11:** Comparison between Deputy Superintendent disciplines in 2013 and 2014.



Out of the 18 NOPD employees<sup>35</sup> who faced Deputy Superintendent disciplinary hearings, 8 NOPD employees' behavior was affected by the consumption of alcohol. Out of the 18 NOPD employees who faced Deputy Superintendent disciplinary hearings, the behavior of 13 NOPD officers affected a civilian's personal safety or a civilian's personal property.

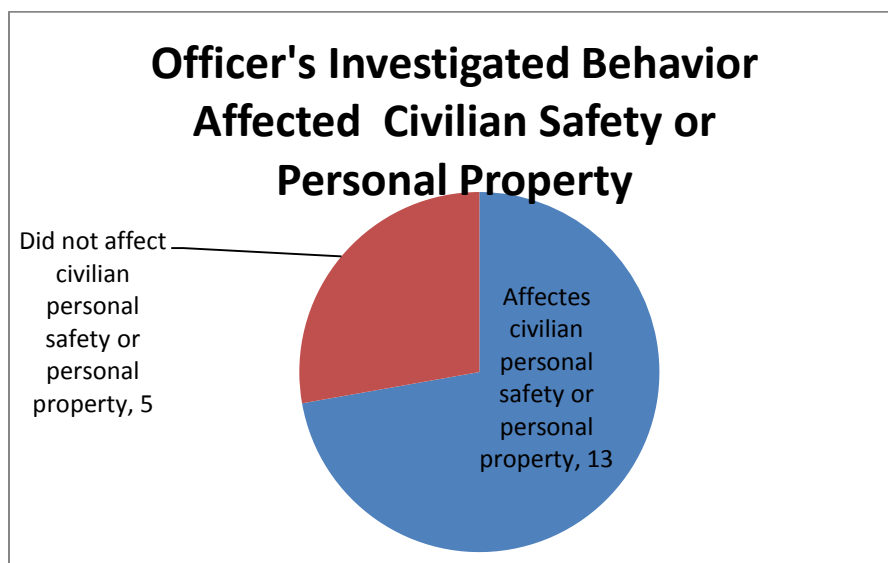
**Figure 12:** Officer's investigated behavior was affected by alcohol consumption.



<sup>35</sup> This includes RUIs.



**Figure 13:** Officer's investigated behavior affected civilian safety or property.



The OIPM studied the employee's pre-disciplinary hearing complaint history. The number of complaints made against an employee may be an indicator that the employee should have been more closely supervised before the employee progressed to the point where he or she faced a serious disciplinary charge. An extensive disciplinary history can also enhance the discipline the officer receives at the disciplinary hearing. For purposes of disciplinary investigations, NOPD categorizes investigated complaints as: Sustained, Not Sustained, No Further Investigation Merited (NFIM), No Violation Observed (NVO) and Exonerated. Figure 14 indicates the number of complaints in the NOPD Employee's disciplinary history five years before that employee was dismissed at a disciplinary hearing. Figure 15 reflects the five-year complaint history of the NOPD employees with the longest suspensions in 2014.

**Figure 14:** Number of complaints in employee's history five years prior to dismissal.

	Sustained	Not Sustained	NVO	NFIM	Exonerated	Unfounded	Pending
Dismissed Officer #1	2	10	2	18	2	2	5
Dismissed Officer #2	1	3	1	2	1	0	1

**Figure 15:** Complaint history<sup>36</sup> of NOPD employees with the longest suspensions in 2014.

	Sustained	Not Sustained	NVO	NFIM	Exonerated	Unfounded	Pending
Officer suspended 45 days	4	0	0	0	0	0	0
Officer suspended 31 days	0	0	0	0	0	0	0
Officer suspended 25 days	3	1	0	0	1	0	0
Officer suspended 16 days	4	2	0	0	0	0	0

Figure 16 indicates the complaint history of those officers who resigned while under investigation in 2014.

**Figure 16:** Complaint history<sup>37</sup> of employees who resigned under investigation (RUI) 2014.

	Sustained	Not Sustained	NVO	NFIM	Exonerated	Unfounded	Pending
Officer RUI #1	1	0	1	0	0	0	0
Officer RUI #2	0	1	0	0	1	0	0
Officer RUI #3	3	0	0	6	0	0	0
Officer RUI #4	0	1	0	0	0	0	1

The OIPM has observed that evidence and information is more forthcoming when a Deputy Superintendent is able to ask questions of the NOPD disciplinary investigator during the deliberation portion of the disciplinary hearing and acts professionally toward the NOPD disciplinary investigator. The OIPM has observed that to achieve the most thorough and complete disciplinary decision the Deputy Superintendent should ask for and weigh the opinion of the OIPM and the City Attorney personnel (if present) on evidence sufficiency, risk analysis,

<sup>36</sup> This is the complaint history for the five years before that employee was suspended.

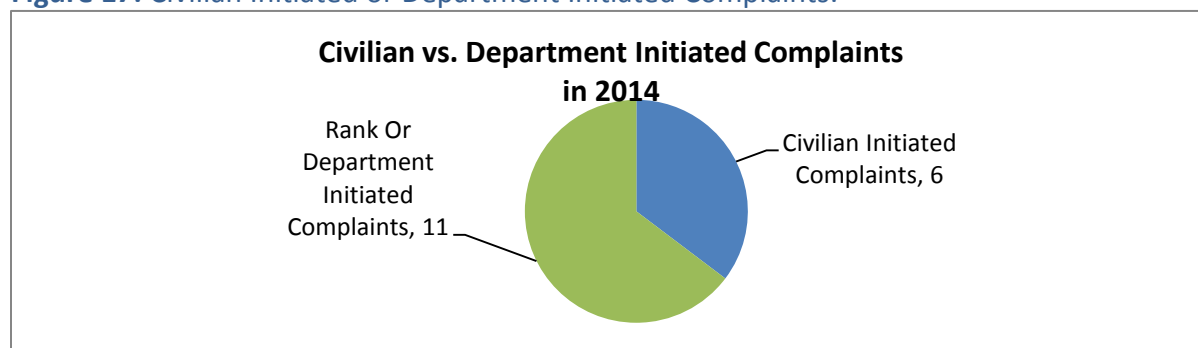
<sup>37</sup> This is the complaint history for the five years before that employee was suspended.

constitutional law, and other involved issues. This approach also increases the transparency of the process. This was a model introduced by outgoing Deputy Superintendent Daryl Albert.

In 2014, the NOPD twice excluded the OIPM from monitoring the full disciplinary hearing. On one occasion, the NOPD failed to notify the OIPM of the disciplinary hearing at all. On the second occasion, the NOPD excluded the OIPM from a meeting where facts and evidence was being weighed and the merits of the case were being deliberated. Where the OIPM is excluded from the deliberative portion of disciplinary hearings or other undisclosed meetings deliberating or deciding the case before the hearing itself, it causes a decrease in the transparency of the disciplinary process as well as obstructing the access the OIPM is granted under its Memorandum of Understanding (MOU) with the NOPD. Transparency of process is important for the NOPD to protect itself from complaints of bias or lack of objectivity in the disciplinary process. Transparency also aids the NOPD in building community trust in its department.

Disciplinary investigations are initiated by complaint. The complaint can either be initiated by a civilian outside of the department (civilian-initiated) or by a member of the department (rank-initiated). The disciplinary hearings which the OIPM monitors are the most serious disciplinary cases where a NOPD employee faces possible dismissal as a result of the allegations lodged against him or her in the complaint. In 2014, 11 of the disciplinary hearing investigations which were scheduled, including those NOPD officers who resigned under investigation (RUI) before the disciplinary hearing could occur, began as rank or department initiated complaints. In 2014, six of the disciplinary hearing investigations which were scheduled to be adjudicated by a Deputy Superintendent, including those NOPD officers who resigned under investigation (RUI) before the disciplinary hearing could occur, were civilian initiated complaints. The comparison between civilian and department initiated complaints is presented in Figure 17.

**Figure 17: Civilian Initiated or Department Initiated Complaints.**



NOPD employees who faced Deputy Superintendent disciplinary hearings were found guilty of a variety of allegations. NOPD employees who faced Deputy Superintendent disciplinary hearings, were found guilty most often for: Failing to follow written or verbal instructions; failing to follow the law; professionalism; and use of alcohol off duty.

The breakdowns of sustained charges are listed in Figure 18. Accused employees usually faced multiple rule violations in each investigation. Figure 19 lists the types of laws NOPD employees allegedly violated.

Figure 20 lists the types of written or verbal instructions officers failed to follow. Every time an officer's action violates a NOPD policy, it is counted as a separate count of a rule violation. For example, if an officer claims to be working a regular tour of duty but is instead working a paid detail on three different occasions, there will be three counts of failure to follow instruction on paid details.

**Figure 18:** Sustained charges against NOPD employees who faced 2014 Deputy Superintendent Disciplinary Hearings.

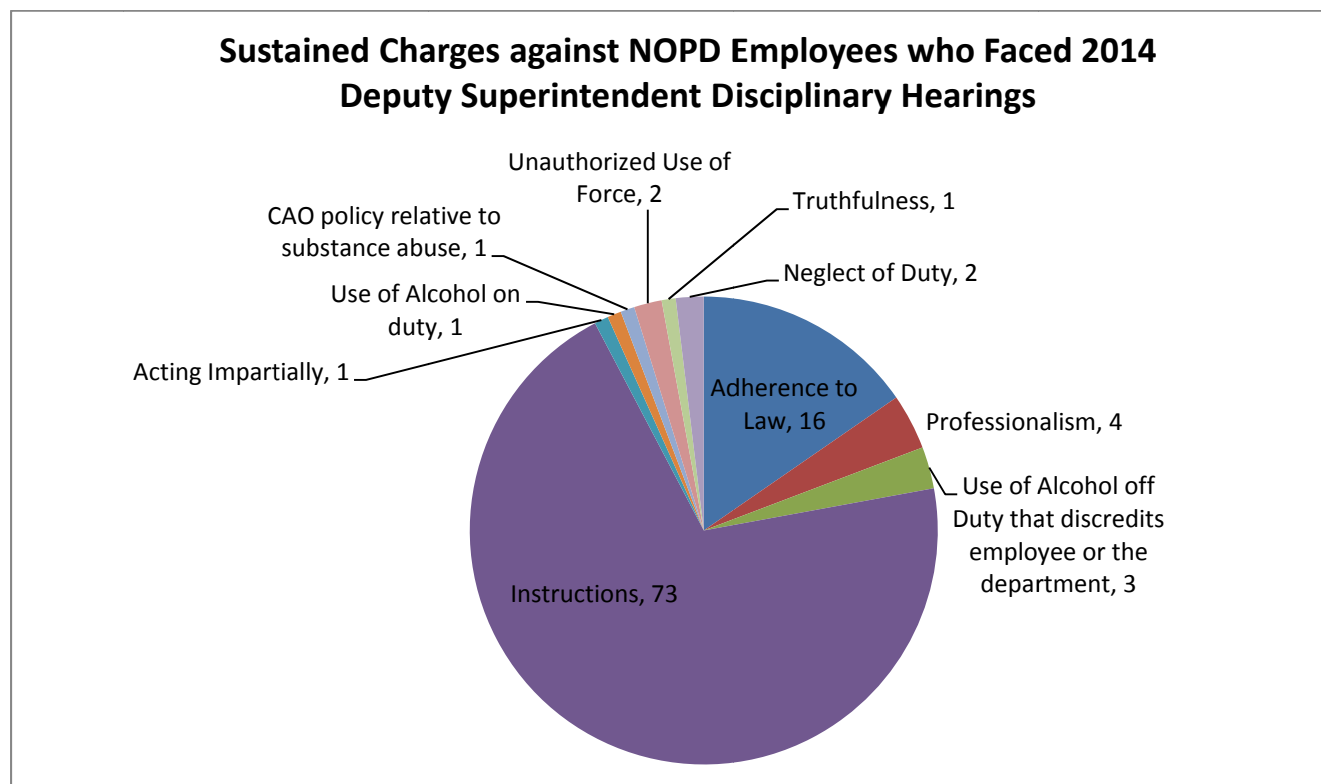
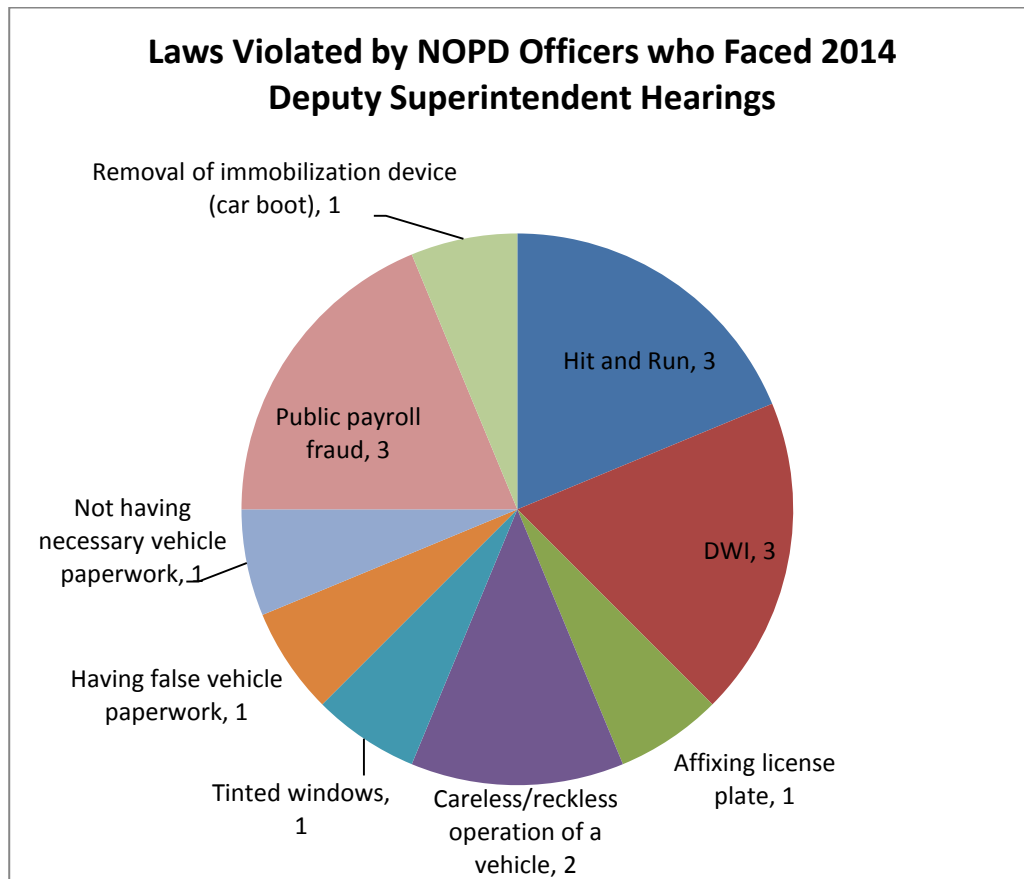
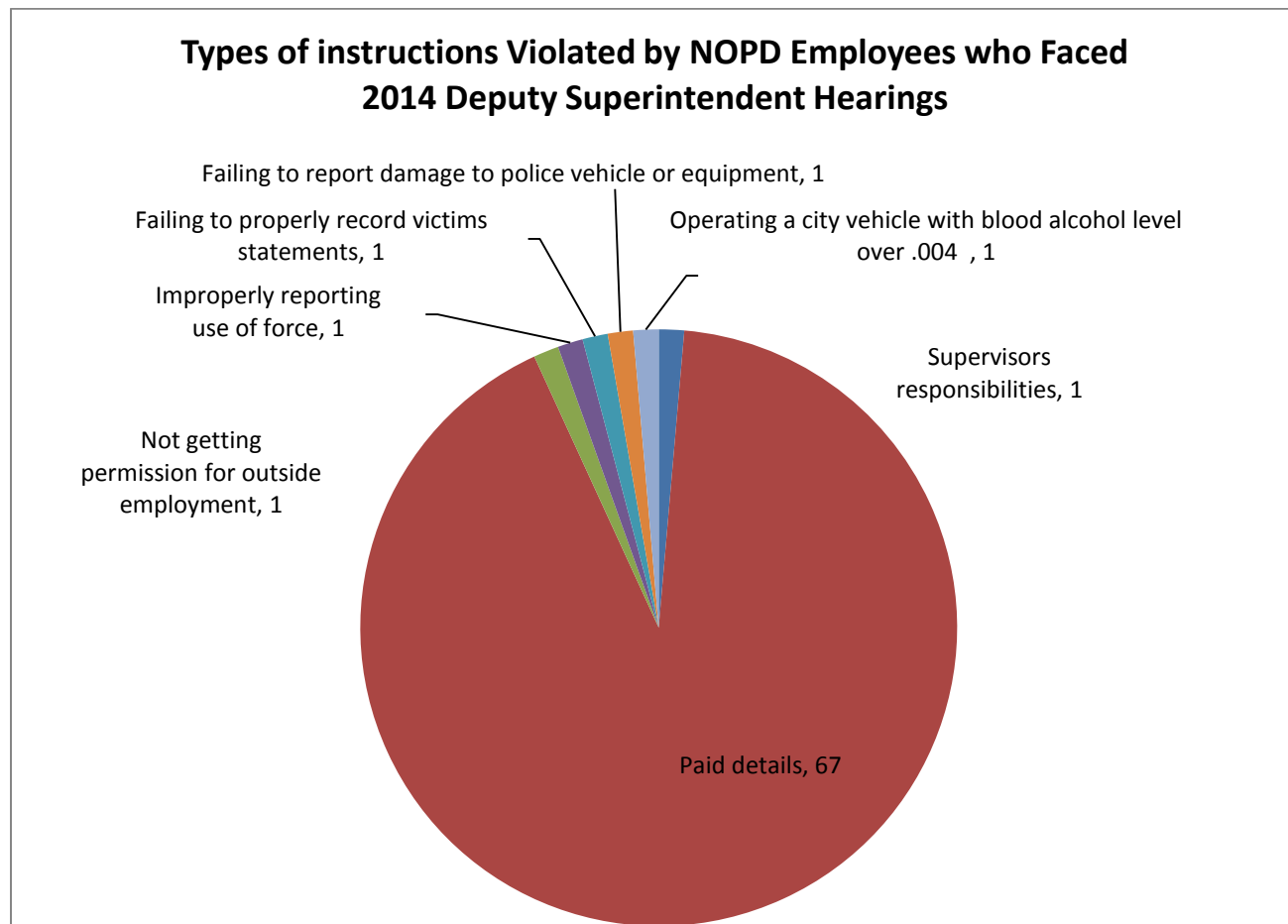


Figure 19: The laws violated by NOPD Employees who faced 2014 Deputy Superintendent Hearings.



**Figure 20:** Types of Instructions violated by officers who faced 2014 Deputy Superintendent Hearings.



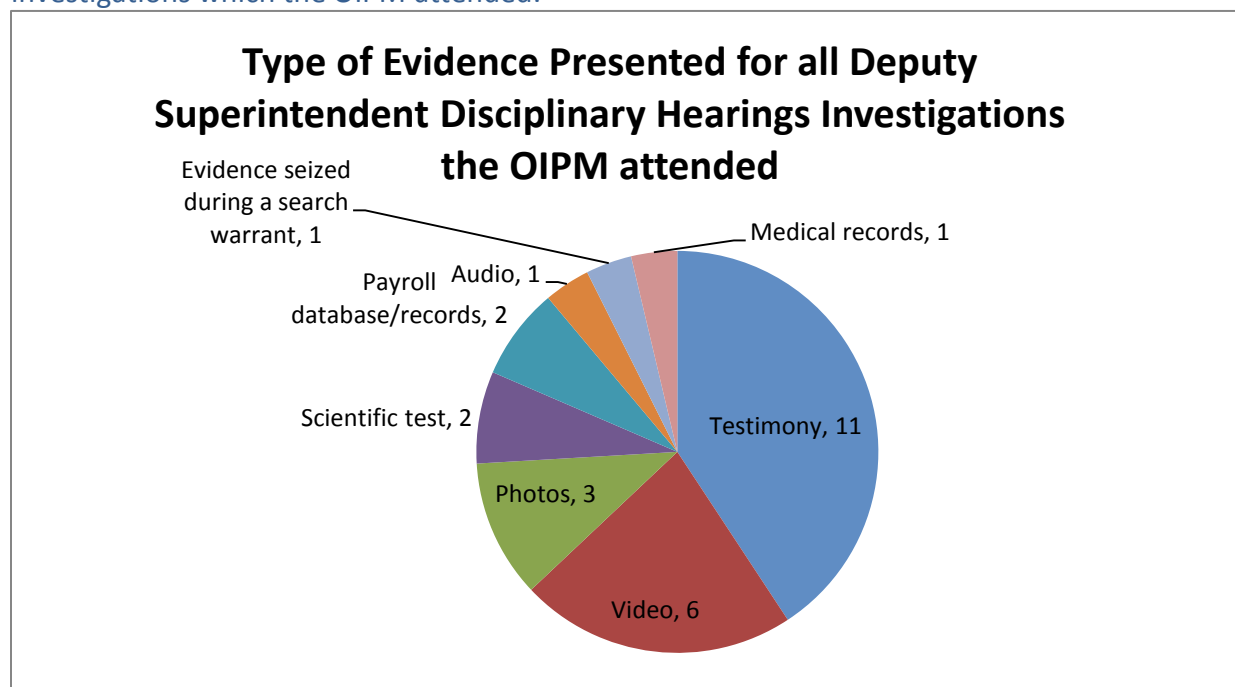
Out of the two NOPD officers who were dismissed in 2014, one was dismissed for having committed fraud involving the working of paid details and the second NOPD officer was dismissed for committing a major use of force incident against a civilian.

The OIPM assessed both the disciplinary investigation as well as the disciplinary hearing. In assessing the evidence presented in both the investigation as well as the disciplinary hearing itself, the OIPM noted the type of evidence that was presented in each investigation and disciplinary hearing. This evidence is noted in Figure 21 for all 11 disciplinary hearings which the OIPM attended. The OIPM also assessed the cases wherein the OIPM found the NOPD investigation to be sufficient. Out of the 11 disciplinary hearings which the OIPM attended, the

OIPM determined the NOPD investigation to be appropriate based on OIPM criteria<sup>38</sup> in three cases and insufficient in seven cases. In eight cases, the OIPM recommended the NOPD investigate the officer on additional disciplinary charges due to evidence presented related to the officer's activities in the NOPD investigation. In four cases, the OIPM found the disciplinary charges against the NOPD employee to be sufficient due to evidence presented about the officer's activities in the NOPD investigation.

The NOPD investigation against an officer often brings different types of evidence to establish the officer committed an administrative violation. Despite the 2014 purchase and use of new body cameras for the majority of patrol officers, video evidence was used in only five of the 14 NOPD investigations. The video used in Deputy Superintendent disciplinary hearing investigations was not limited to NOPD in car camera or body cameras however, but includes video from state police and other institutions that had video that caught the incident in question.

**Figure 21:** Type of evidence presented for all Deputy Superintendent Disciplinary Hearing investigations which the OIPM attended.



<sup>38</sup> The OIPM analyzes the NOPD investigation according to certain criteria which can be found in Appendix E.

## Conflict of Interest

The OIPM has warned both the NOPD and the U.S. District Court overseeing the NOPD Consent Decree that it is a conflict for NOPD to investigate certain disciplinary cases. Examples of cases where NOPD has a conflict of interest include, but are not limited to the following:

- When the NOPD Public Integrity Bureau (NOPD PIB) investigates a NOPD PIB employee;
- When the accused NOPD employee is the rank of a Commander or above;
- The investigator is a witness to the investigated offense;
- The investigator is biased due to his or her relationship with the accused or the accused's family.

In only one 2014 Deputy Superintendent disciplinary hearing that the OIPM attended did the OIPM find there to be a conflict of interest for NOPD to have investigated the accused NOPD employee.

NOPD employees are investigated on a “preponderance of the evidence” standard<sup>39</sup> for internal rule violations. In every Deputy Superintendent disciplinary hearing which the OIPM attends, the OIPM observes whether the Deputy Superintendent’s disposition (whether to sustain or to not sustain the disciplinary charges) is supported by sufficient evidence in order to find the accused guilty by a preponderance of the evidence. The OIPM observed that the Deputy Superintendent’s decision to sustain or not sustain the charges was supported by the evidence in nine out of 11 disciplinary hearings which the OIPM attended. In two cases, the OIPM observed that the Deputy Superintendent’s decision was not supported by sufficient evidence. The OIPM determined that where officers were suspended, that the days the officers were suspended was adequate, based on the severity of the offense, in nine cases and inadequate in two cases. In five cases the OIPM recommended that the accused officer be re-trained, however in no case did the NOPD require the officer be re-trained. In four cases the OIPM

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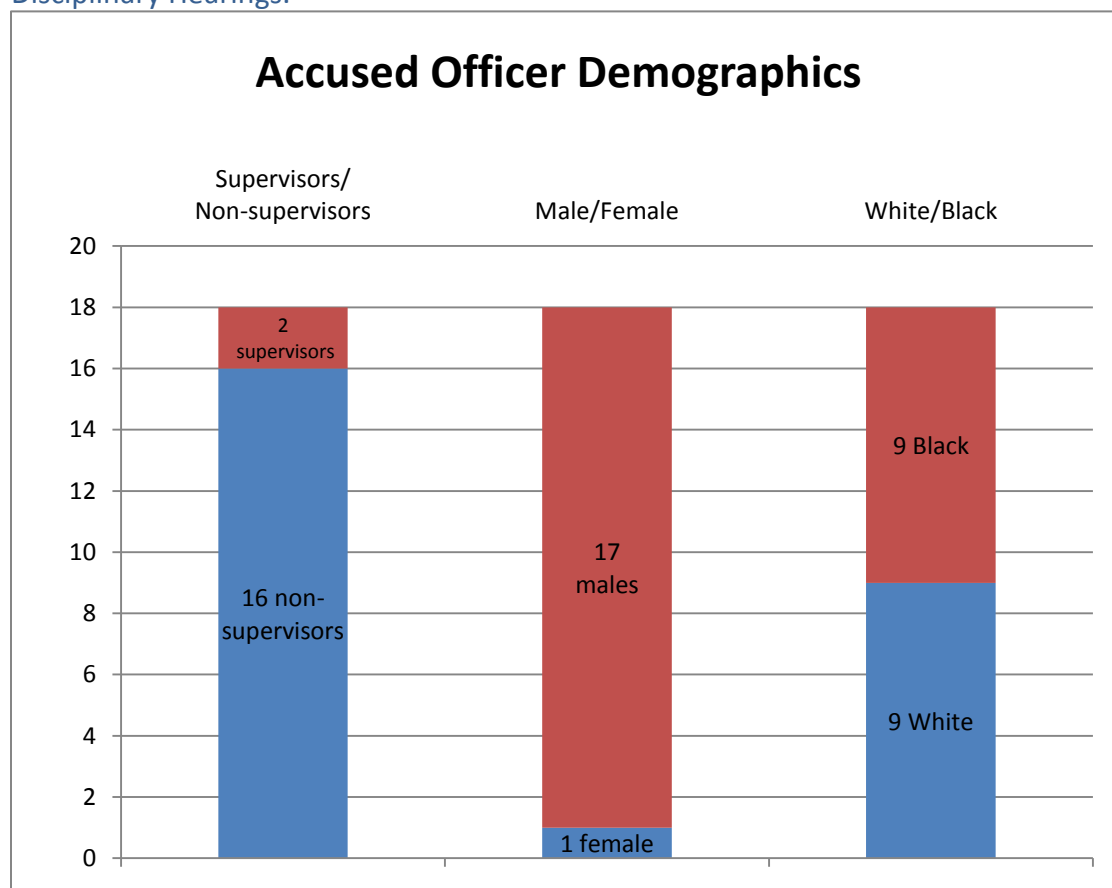
<sup>39</sup> The preponderance of the evidence standard is defined as: the great weight of the evidence required in a civil (non-criminal) lawsuit for the trier of fact (jury or judge without a jury) to decide in favor of one side or the other. This preponderance is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence. Thus, one clearly knowledgeable witness may provide a preponderance of evidence over a dozen witnesses with hazy testimony, or a signed agreement with definite terms may outweigh opinions or speculation about what the parties intended. Preponderance of the evidence is required in a civil case and is contrasted with “beyond a reasonable doubt,” which is the more severe test of evidence required to convict in a criminal trial. No matter what the definition stated in various legal opinions, the meaning is somewhat subjective.



recommended that the accused officer be required to attend substance abuse counseling; however, in no case was the officer required to attend substance abuse counseling.

The OIPM also collected information on the accused officer. Out of the 18 officers<sup>40</sup> who faced Deputy Superintendent disciplinary hearings, only two officers were supervisors. Only one officer was female. Out of the 18 officers<sup>41</sup> who faced Deputy Superintendent disciplinary hearings 9 officers were white and 9 officers were black. Out of the 18 officers<sup>42</sup> who faced Deputy Superintendent disciplinary hearings, the OIPM did not receive any evidence of the accused acting as a whistleblower or the investigation being used as retaliation against the accused.

**Figure 22: Demographics and status of accused officers who faced 2014 Deputy Superintendent Disciplinary Hearings.**



<sup>40</sup> This number includes RUIs.

<sup>41</sup> This number includes RUIs.

<sup>42</sup> This number includes RUIs.

# 2014 OIPM CRITICAL INCIDENT RESPONSE AND USE OF FORCE MONITORING ACTIVITIES

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The OIPM is required by City Code § 2-1121 to monitor the quality and timeliness of NOPD's investigations into use of force and in-custody deaths.

## **OIPM Critical Incident Response**

Investigations of Critical Incidents, although numerically a smaller percentage of the OIPM's case monitoring and review functions, are the OIPM's highest priority. These cases, which include officer-involved shootings and officers' use of other deadly force, are often subject to public scrutiny as well as involving physical and professional risks to the officers involved. Most importantly, these cases involve the potential loss of life.

In November 2010, the OIPM and the NOPD agreed upon a Memorandum of Understanding (NOPD-OIPM MOU) to provide a structure for the personnel of both agencies to work together and to allow the OIPM to fulfill the will of the public codified in the OIPM's Ordinance. The MOU provides that the OIPM will monitor Critical Incident investigations on the same basis and using the same procedures as the OIPM uses for monitoring civilian and internally generated complaints.

The MOU defines a Critical Incident as:

- All incidents involving the use of deadly force by an NOPD officer, including an Officer Involved Shooting ("OIS");
- All uses of force by an NOPD officer resulting in an injury requiring hospitalization, (commonly referred to as a law enforcement related injury or "LERI" incident);
- All head strikes with an impact weapon, whether intentional or not;
- All other uses of force by an NOPD officer resulting in a death, (commonly known as a law enforcement activity related death or "LEARD" incident); and
- All deaths while the arrestee or detainee is in the custodial care of the NOPD, commonly referred to as an in-custody death or "ICD";

## **Force Investigation Team**

In the fall of 2010, the OIPM sent recommendations to the NOPD requesting that a specialized investigations team be created in PIB to investigate critical incidents. The unit began operating



in early 2012. Starting in 2013, PIB's Force Investigation Team (FIT) conducted all of the Critical Incident Investigations. Lt. Christopher Kalka took over the FIT unit in 2013 and remained the Lieutenant in charge of FIT during 2014.

Prior to 2013, the NOPD managed its Critical Incident investigations primarily through three units: 1) The Homicide Unit; 2) Investigators in the district; and 3) PIB. Previously, PIB was responsible only for the administrative investigation of the officer. The administrative investigation determines whether the officer followed NOPD's policies during the incident.

As required by the Consent Decree, FIT responds to many use of force incidents which are not identified as Critical Incidents under the NOPD-OIPM MOU. Therefore, the OIPM does not roll out to all scenes to which FIT may be called. The cases which the OIPM is notified of but which are not identified as critical incidents are identified by the OIPM as Use of Force cases.

### **OIPM'S Objectives**

The two objectives behind the OIPM's response to the Critical Incidents scenes are to determine whether the NOPD properly managed these scenes, and to evaluate the effectiveness of the NOPD's initial investigations into these major uses of force.

Accordingly, the MOU required the NOPD to perform the following functions for Critical Incidents:

- Notify the OIPM of the occurrence of any Critical Incident, within one hour of its occurrence.
- Designate one supervisory officer of the investigating unit, at the scene, to provide the OIPM with an overview of the incident, access to the scene, and walk-through of the crime scene area and perimeters.
- Provide the OIPM access to the incident report, use of force report and the investigative report (with complete investigation), within 24 hours of the creation of the report.
- Notify the OIPM at least 48 hours prior to the interviews of police officers involved in critical incidents, to allow the OIPM to attend those interviews.
- Assign a lead investigator responsible for keeping the OIPM staff member assigned to monitor the case informed of all pertinent issues.

Additionally, to achieve its objectives, the OIPM asks for and records the following information at each scene:



- Location and district of occurrence (address/intersection/description);
- Incident details;
- Officers involved (district assignments, badge/employee no., rank);
- Subjects involved (name, DOB, race, gender, address);
- Deaths (if known);
- Injuries, number & injury type (to officers and subjects);
- Number of bullets/bullet casings/hits;
- Weapons/caliber;
- Physical evidence collected;
- Entry or exit points;
- Pathways taken by the involved officers, subjects and witnesses;
- Any video or audio that will be viewed at the scene by investigators;
- Control of the scene;
- Legality of the entry or detention;
- Legality and appropriateness of the use of force given the total circumstances;
- Appropriateness of the tactics given the total circumstances;
- Appropriateness of the drawing/exhibiting/holstering of the officer's weapon given the total circumstances; and
- Any other concerns or observations.

The OIPM is required to submit a Critical Incident report to PIB within seven days of the OIPM's receipt of PIB's complete critical incident internal investigation. The OIPM's critical incident report must be submitted to PIB prior to the Administrative Shooting Hearing decision relating to the appropriateness of the use of force. This OIPM written report includes such issues as: the appropriateness of investigative techniques, unchallenged assumptions or unconscious biases of the investigators, case law, discipline, training, department policy, as well as a consideration of tactics employed during the incident and investigative thoroughness (depth and scope).

The OIPM was unable to review the investigations of the Critical Incident Investigations which were completed in 2014, due to a lack of timely access to the NOPD investigative files for those 17 Critical Incident Investigations.

### **2014 NOPD Critical Incident Statistics, Data and Observations**

There were 17 NOPD Critical Incidents in 2014. The OIPM arrived at the crime scenes of 11 critical incidents with sufficient time to collect OIPM observations of the crime scene data. When NOPD notified the OIPM that the crime scene was not preserved, the OIPM arrived at the



hospital where the civilian was taken within an hour after the Critical Incident occurred; this occurred on three occasions. The OIPM arrived at the critical incident more than an hour after the critical incident occurred on one occasion in 2014 after the NOPD gave the OIPM insufficient information on the Critical Incident. The OIPM did not attend two different Critical Incident crime scenes after the NOPD failed to timely notify the OIPM. On one occasion the NOPD notified the OIPM more than 12 hours after the critical incident occurred. On another Critical Incident, the NOPD notified the OIPM over an hour after the Critical Incident occurred. Being able to review the scene and receive a walkthrough and briefing is essential for the OIPM to determine if the initial part of the investigation is being conducted properly. Reviewing the scene and receiving a walkthrough is also essential for the OIPM to make recommendations to improve the quality of NOPD critical incident investigations. Despite not having access to some 2014 Critical Incident crime scenes, the OIPM still monitored and collected information on all 17 of the 2014 Critical Incidents.

When the OIPM monitored Critical Incidents, the OIPM observed and collected information regarding the involved officers, the involved civilian (if the incident involved a civilian), the investigative procedures that followed the Critical Incident, and the crime scene itself. In some Critical Incidents the OIPM was able to make observations on the Critical Incident despite not having attended the crime scene, such as when the OIPM attended the hospital where the involved civilian was transported where the OIPM was not timely notified or no crime scene was preserved.

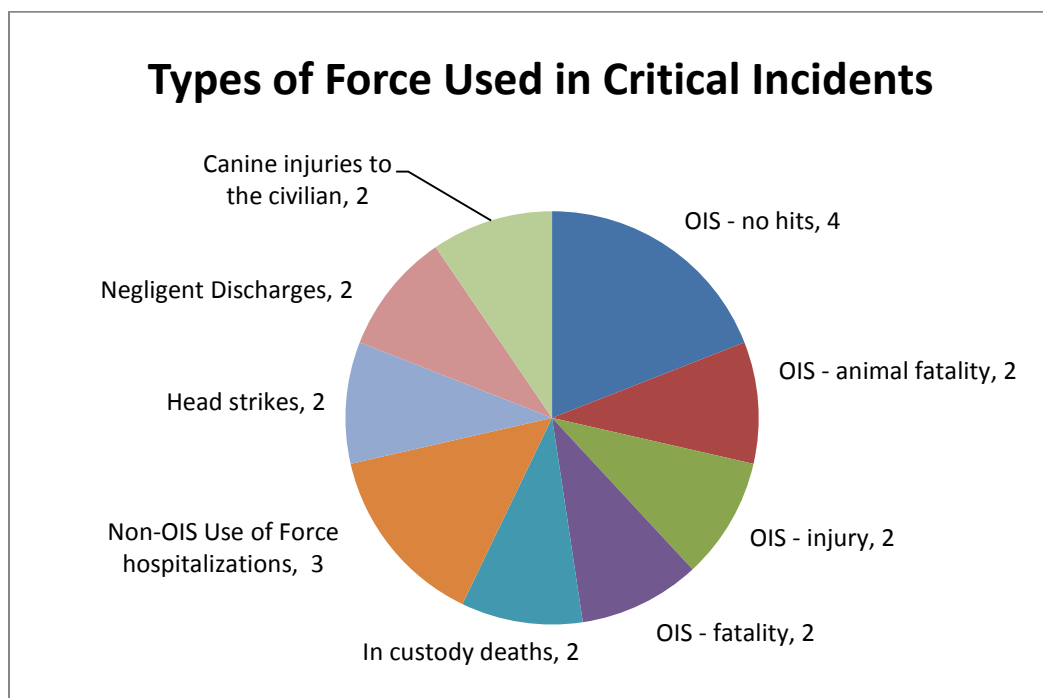
The OIPM observations included below contain the OIPM's initial questions or concerns resulting from the OIPM's initial response to the Critical Incident. The OIPM collects and records its initial questions and concerns for use as a guide in the OIPM's review of the completed Critical Incident investigations.

### **Types of Critical Incidents**

In 2014, there were 17 Critical Incidents, the same number of Critical Incidents as in 2013. In 2014, 11 of these Critical Incidents involved the firing of an officer's firearm as compared to 2013, when 13 of the Critical Incidents involved the firing of an officer's firearm. In 2014, three critical incidents involved two different types of force. There may be more than one type of force used in each Critical Incident. The types of Critical Incidents which occurred in 2014 are set out in Figure 23 below. Keep in mind when looking at Figure 23 that three critical incidents involved two different types of force.



**Figure 23:** Types of force used in Critical Incidents.



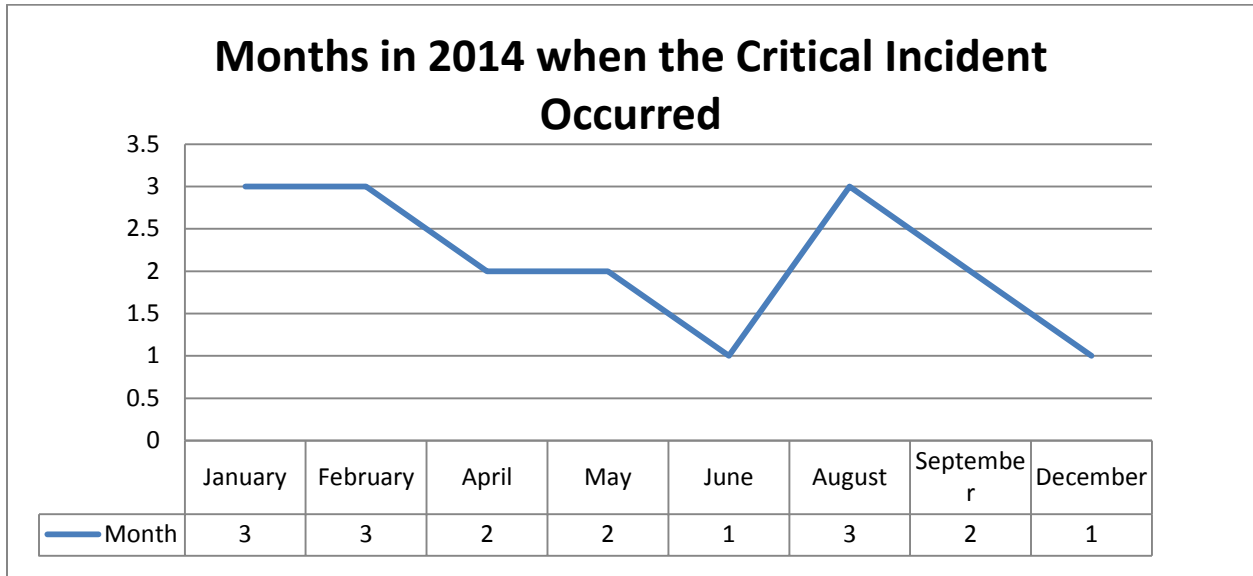
#### Officer and Suspect Injuries

In four of the 17 Critical Incidents from 2014, police officers sustained injuries. These officer injuries included two gunshot wounds (to one officer), and non-gunshot wound injuries to an officer's hand, an officer's knee and an officer's arm.

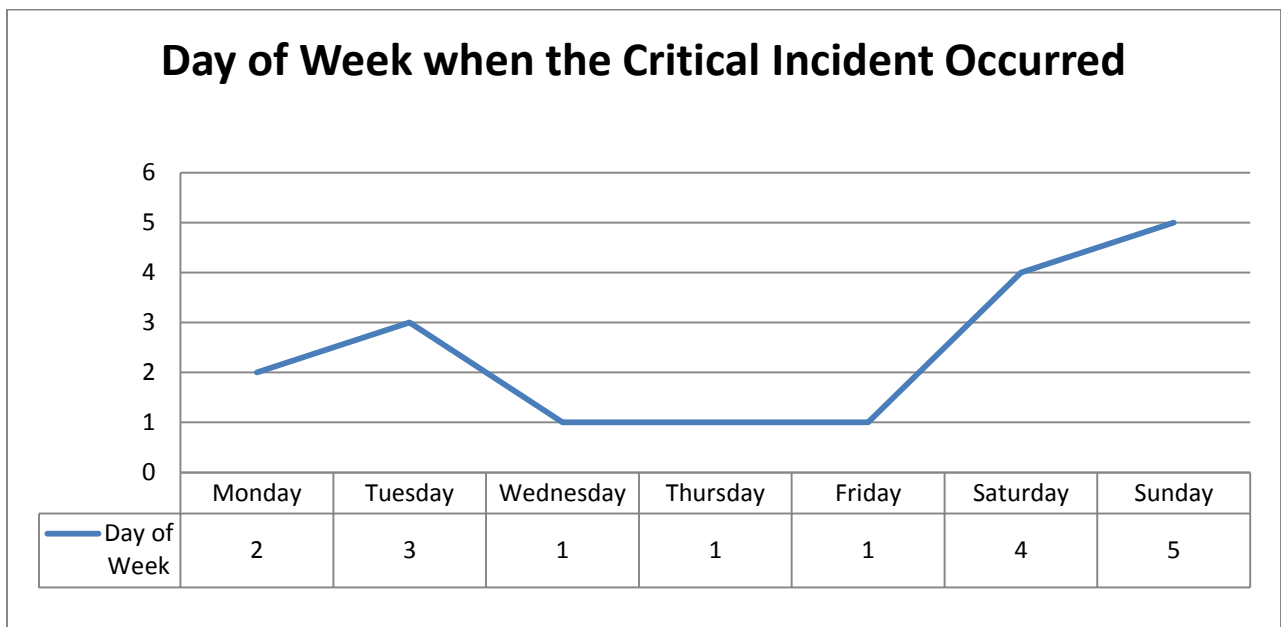
In 12 of the 17 Critical Incidents from 2014, civilians died or were injured. One civilian sustained self-inflicted fatal gunshot wounds. Two civilians suffered fatalities from Officer Involved Shootings (OIS). Other civilian injuries include two non-fatal gunshot wounds, three dog bites, one non-OIS head injury, three non-OIS injuries to the face, two non-OIS internal injuries and one case of abrasions to the body. Some critical incidents involved more than one injury or death. In some Critical Incidents, one civilian received more than one type of injury.

## Month, Day of the Week and Time of the Critical Incident

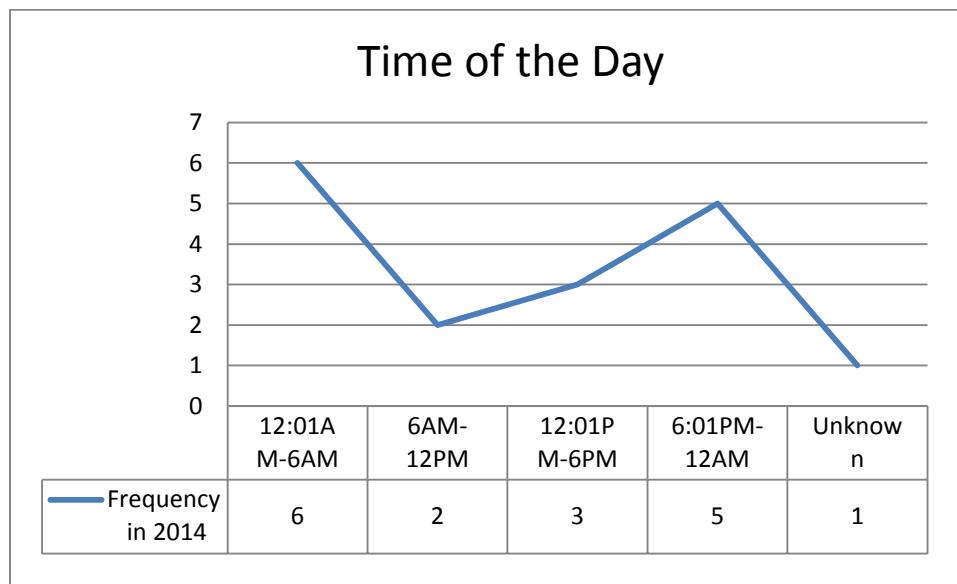
**Figure 24:** Months in 2014 when the Critical Incident occurred.



**Figure 25:** Day of week when the Critical Incident occurred.

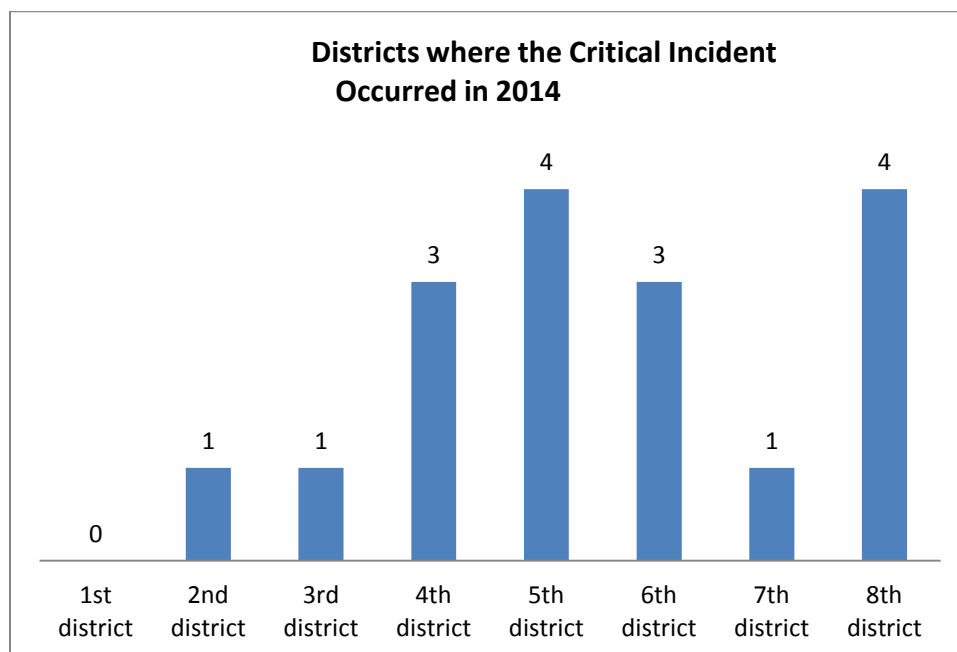


**Figure 26:** Time of day the Critical Incident occurred.



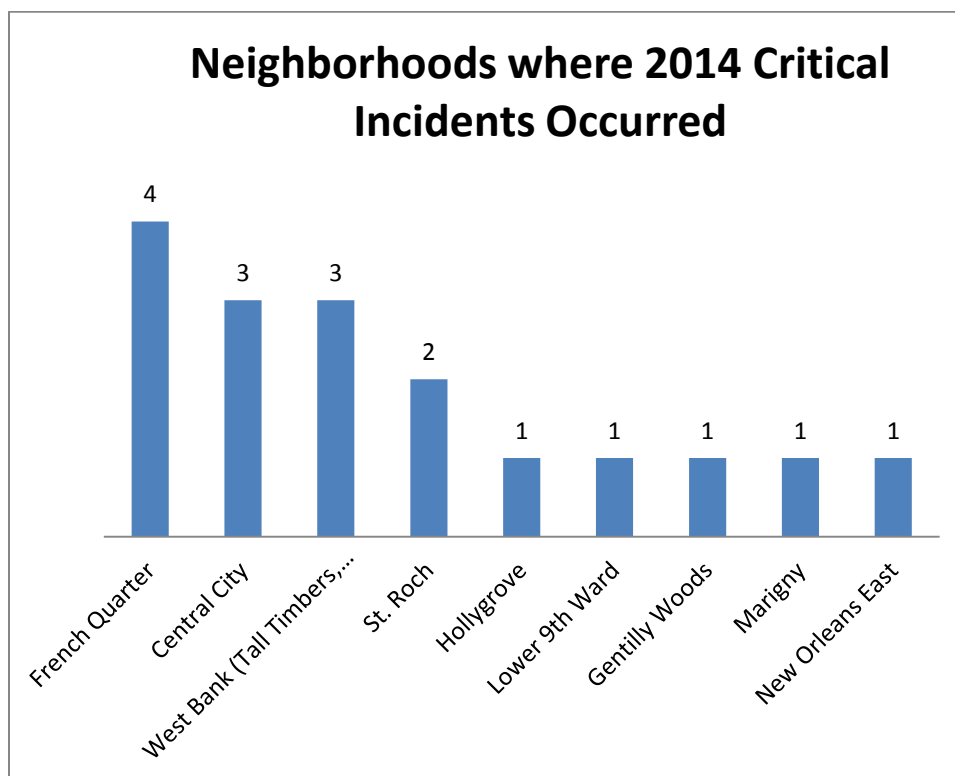
**Location and District where the Critical Incident Occurred**

**Figure 27:** In which Districts the Critical Incident occurred.





**Figure 28:** The neighborhoods where Critical Incidents occurred.



#### Initial Stop/Entry/Detention Concerns

In four of the 2014 Critical Incidents, the OIPM questioned the legality of the involved officer's initial stop of the suspect. In three of the Critical Incidents, the OIPM questioned the legality of the detention of subjects or witnesses involved in the incident. In six of the Critical Incidents, the OIPM had no concerns relating to the initial stop, entry or detention of the civilian suspect. In four of the Critical Incidents, there were no civilian suspects, and thus no concerns with the stop or detention of the civilian.

#### Tactical Concerns

In eight of the 2014 Critical Incidents, the OIPM questioned the appropriateness and safety of the tactics<sup>43</sup> employed by the officers leading up to the use of deadly force. In three of the

<sup>43</sup> Tactics are "methods, maneuvers or techniques used to achieve policing objectives. Evaluation of any use of force incident must include an evaluation of the tactics used by the involved officers. Because police officers may encounter an almost infinite variety of scenarios in the field, it is generally impossible to pre-determine the tactics

Critical Incidents, the OIPM did not the question the appropriateness and safety of the tactics and found NOPD tactics to be appropriate. In six of the Critical Incidents, the OIPM had insufficient information to make a preliminary assessment of the Use of Force.

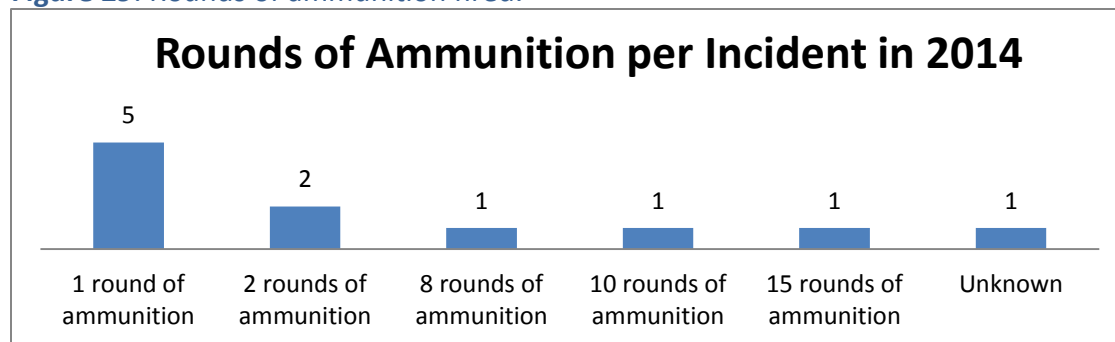
### Use of Force Concerns

In nine of the Critical Incidents, the OIPM questioned the legality of the force used by officers. In three of the Critical Incidents, the OIPM had no questions about the appropriateness and legality of the force used by officers. In five of the Critical Incidents, the OIPM had insufficient information to make a preliminary assessment of the use of force.

### Number of Rounds

In 2014, nine Critical Incident crime scenes were Officer Involved Shootings and two were negligent discharges. At four OIS scenes and two negligent discharges, the NOPD officer discharged one round of ammunition. At two OIS scenes the officer discharged two rounds of ammunition. At one OIS, the NOPD officer discharged eight rounds of ammunition. At one OIS, the officer discharged 10 rounds of ammunition. At one OIS, the officer discharged 15 rounds of ammunition. At one OIS, it was unknown how many rounds of ammunition, the NOPD officer discharged. The average number of rounds of ammunition which an NOPD officer discharged during a critical incident<sup>44</sup> is four rounds of ammunition. The number of rounds of ammunition discharged during a critical incident is presented in Figure 29.

**Figure 29:** Rounds of ammunition fired.



that should be used. Rather, officers must apply general tactical principles and methods to situations that are fluid, dynamic and uncertain. Sound tactical performance thus relies upon officers' ability to evaluate scenarios they encounter, and to make appropriate tactical decisions as to how the scenario should be managed in order to meet the relevant policing objectives." The above definition is quoted directly from the LAPD Police Commission.

<sup>44</sup> For the critical incidents for which the OIPM has data.

### Drawing/Exhibiting/Holstering Concerns

In four of the 2014 Critical Incidents, the OIPM questioned the appropriateness of officers drawing their weapons, given the situation. In five Critical Incidents, the OIPM determined it was appropriate for the officer to draw their weapons, given the situation. In three Critical Incidents, the OIPM had insufficient information to make a preliminary assessment on the appropriateness of the officer drawing his or her weapon. In five Critical Incidents, the NOPD officer did not draw his weapon.

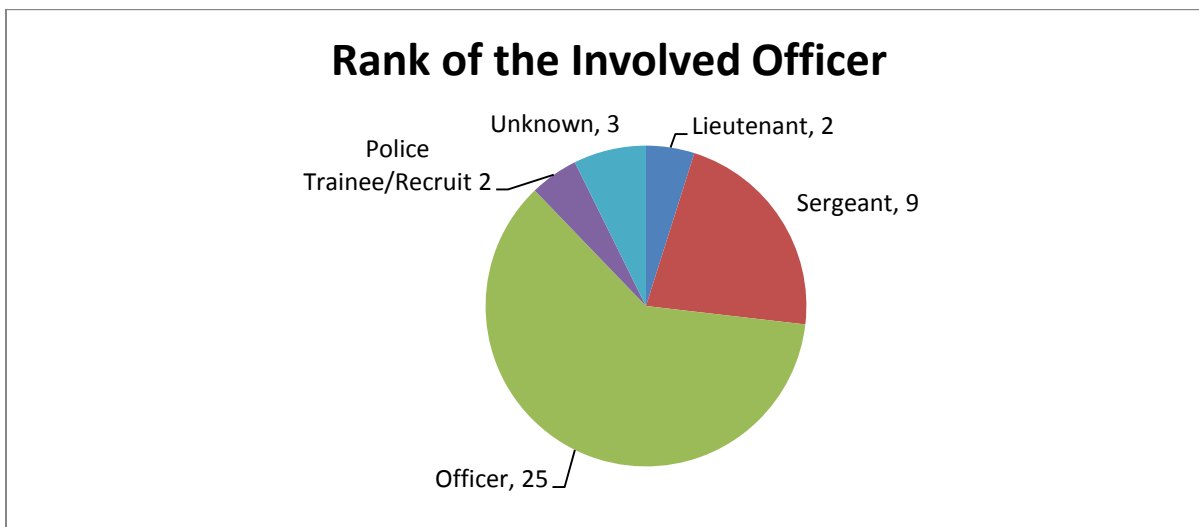
### Bystanders Endangered

In seven of the 2014 Critical Incidents, the OIPM observed that bystanders were endangered by the officer's use of force. In six of these Critical Incidents where bystanders were endangered, NOPD officers had discharged their firearms in a public location. In one of these Critical Incidents where bystanders were endangered, a NOPD officer had discharged a firearm in a private location. In seven others, bystanders were not endangered by the officer's use of force. In three incidents, the OIPM did not have enough information to make a determination.

### Information on Officers Involved in Critical Incidents

There were 41 officers involved in the 17 critical incidents in 2014. The officers' information is contained in the following tables:

**Figure 30:** Rank of the involved officer from highest rank to lowest rank.



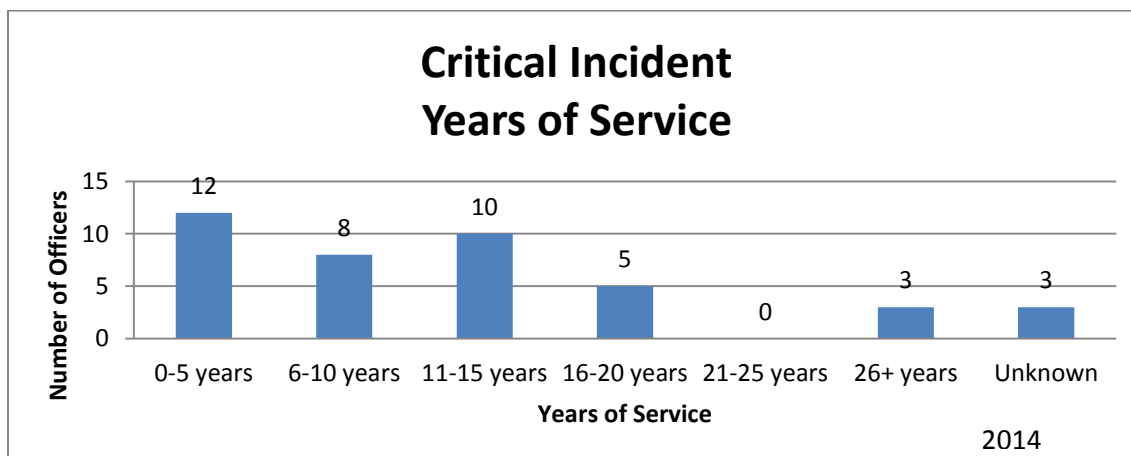
**Figure 31:** Critical Incident- officer demographics.

Race/Gender	<20 Years of Age	20 to 29 Years of Age	30 to 39 Years of Age	40 to 49 Years of Age	>50 Years of Age	Unknown age	Total
Black Male	0	2	5	9	2	0	18
Black Female	0	0	0	1	0	0	1
White Male	0	2	9	3	2	1	17
White Female	0	0	1	0	0	0	1
Asian Male	0	0	1	0	0	0	1
Unknown Race Female	0	0	0	0	0	1	1
Unknown Race, Unknown Gender	0	0	0	0	0	2	2
<b>Total</b>	<b>0</b>	<b>4</b>	<b>16</b>	<b>13</b>	<b>4</b>	<b>4</b>	<b>41</b>

### Critical Incident Officers' Years of Service

Figure 32 contains the years of service for each NOPD officer involved in a 2014 Critical Incident. The least number of service years for an officer involved in a Critical Incident was one year; the longest tenure of an officer involved in a Critical Incident was 29 years of service.

**Figure 32:** Critical Incident years of service.



### Critical Incident Officers' Previous Use of Force Incidents

Figure 33 contains the number of previous Use of force incidents against officers involved in Critical Incidents.

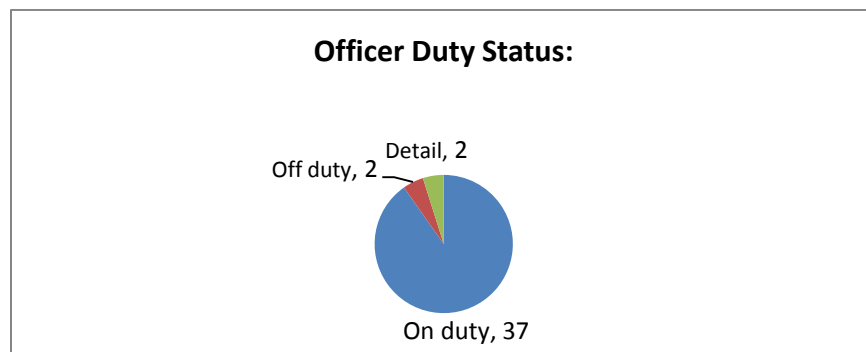
**Figure 33:** Previous uses of force for each officer who was involved in a Critical Incident.

Previous uses of Force	Number of Officers
0	2
1	18
2	4
3	3
4	4
5	2
6	0
7	1
8	0
9	0
10	1
11-15	0
15+	2
Unknown	4

### Officer Duty Status during the Critical Incident

Figure 34 contains information as to whether the NOPD officer was on duty, was off duty or was working a private detail at the time of the Critical Incident.

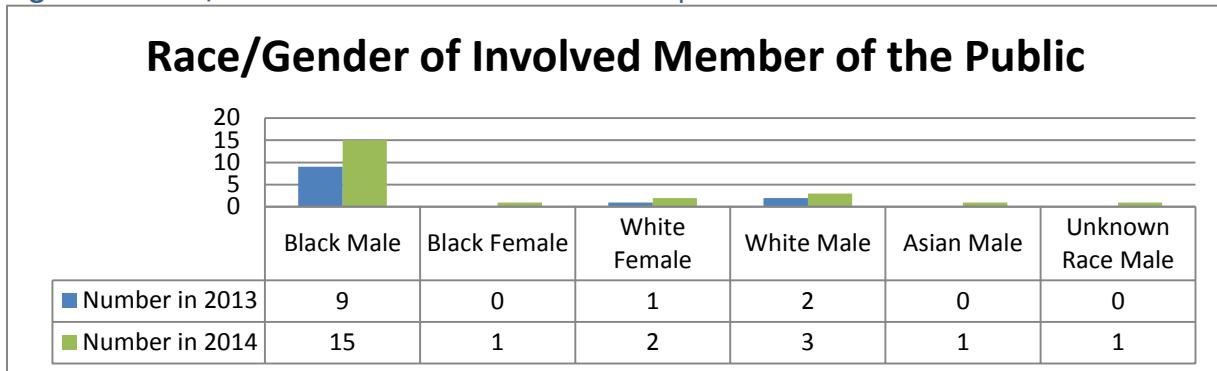
**Figure 34:** Officer Duty status-On Duty/ Off Duty/On Detail.



### Involved Member of the Public

The following table contains the race and gender of involved members of the public during 2014 Critical Incidents and 2013 Critical Incidents. Information was not available in all Critical Incidents.

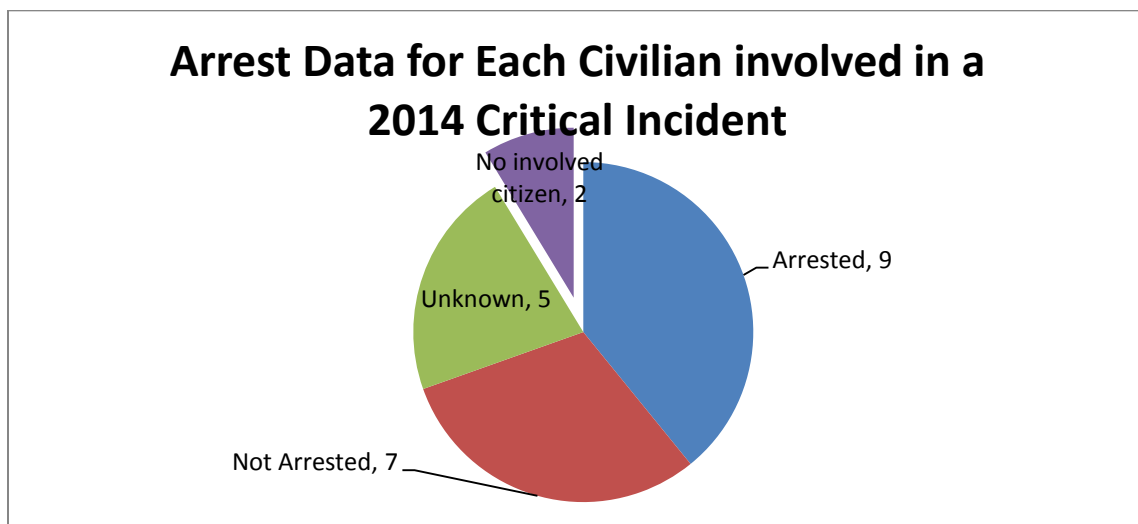
**Figure 35:** Race/Gender of involved member of the public.



### Involved Civilian Arrested During the Critical Incident

Figure 36 illustrates whether the civilian involved in the critical incident was arrested. In some Critical Incidents several members of the public were involved.

**Figure 36:** Arrest data for each civilian involved in a 2014 Critical Incident.



### **OIPM Notification**

Out of the 17 Critical Incidents which occurred in 2014, in 12 of the Critical Incidents the OIPM was notified within one-hour of the incident as required by the OIPM-NOPD MOU. In 4 Critical Incidents, the OIPM was not notified within one-hour of the incident. In one critical incident the OIPM was unable to determine when the incident occurred and thus was unable to determine if notification was timely.

### **OIPM Briefing in Compliance**

In 13 of the 2014 Critical Incidents, the NOPD briefing which OIPM received from NOPD was in compliance in regards to the information or access to the scene, as required by the OIPM-NOPD MOU. In four of the Critical Incidents, the NOPD briefing to the OIPM was not in compliance in regards to the information or access to the scene, as required by the OIPM-NOPD MOU.

### **OIPM Walkthrough in Compliance**

In 10 of the Critical Incidents, the OIPM's walk through and access to the Critical Incident scene was in compliance with the requirements of the OIPM-NOPD MOU. In seven of the critical incidents, the OIPM's walk through and access to the Critical Incident scene was not in compliance with the requirements of the OIPM-NOPD MOU.

### **Scene Access Controlled**

In five of the Critical Incidents, the NOPD properly controlled access to the Critical Incident crime scene to prevent the mishandling of evidence and to preserve the chain of custody. In seven of the Critical Incidents, the NOPD did not properly control access to the OIS scene, to prevent the mishandling of evidence and to preserve the chain of custody. In five of the Critical Incidents, the OIPM did not have enough information to make a determination relating to the control of the crime scene.

In three of the 2014 Critical Incidents, the NOPD had a sign-in sheet which had to be signed before entering into the crime scene. In nine of the Critical Incidents, there was no sign-in sheet. In five of the Critical Incidents, the OIPM had insufficient information to determine if there was a sign-in sheet.



### **OIPM's Immediate Access to Scene**

The NOPD- OIPM Memorandum of Understanding (NOPD-IPM MOU) requires the OIPM to have access to the crime scene during the immediate investigation. In eight of the 2014 Critical Incidents, the OIPM was granted immediate access to the scene. In nine of the Critical Incidents, the OIPM was not granted immediate access to the scene<sup>45</sup>.

### **Evidence Removal**

In seven of the Critical Incidents to which the OIPM responded evidence was removed prior to the OIPM being granted entrance to the Crime Scene. In six of the Critical Incidents to which the OIPM responded, evidence was not removed prior to the OIPM being granted entrance to the Crime Scene. In four of the Critical Incidents to which the OIPM responded the OIPM was unable to determine if evidence was removed prior to the OIPM being granted entrance to the Crime Scene.

### **Subject Officer(s) Sequestration**

In one of the 2014 Critical Incidents, the officers involved in the Critical Incident were properly removed from the scene and monitored by supervisors, to prevent them from discussing the incident with other involved officers or non-investigatory personnel. In nine of the Critical Incidents, officers were not properly sequestered. In seven of the Critical Incidents, the OIPM did not have enough information to determine if officers were properly sequestered.

### **NOPD Video Evidence**

In seven of the 2014 Critical Incidents, there was video evidence captured during the Critical Incident. In five of the Critical Incidents which occurred, there was no video evidence captured during the Critical Incident. In five of the Critical Incidents, the OIPM did not have enough information to determine if video evidence captured during the Critical Incident.

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<sup>45</sup> It should be noted that in some of these cases, NOPD PIB also was not granted immediate access to the scene either because NOPD Command Desk did not notify the OIPM and NOPD PIB while the crime scene was still preserved or because there was no crime scene preservation in the first place.



## NOPD Critical Incident Determinations Regarding Law and Policy

The Superintendent of Police must make a determination in each critical incident as to whether the officer's use of deadly force violated NOPD policy. In some cases, the Orleans Parish District Attorney must determine whether the law has been violated.

The United States Supreme Court ruled that under the Fourth Amendment to the United States Constitution, police officers may only use that force which is reasonable and necessary to accomplish a lawful police objective such as an arrest, entry, or detention.<sup>46</sup> Additionally, under Louisiana law, police officers have the authority to use deadly force when authorized by their duties/law, in defense of a life, in defense of property, or to prevent great bodily harm.<sup>47</sup>

### NOPD Policy

Under NOPD policy, a police officer has the authority to use deadly force under the appropriate constitutional and state law standards. Additionally NOPD policy requires officers to use an alternative to force, such as verbal persuasion, if reasonable under the circumstances.

### NOPD Determinations for 2014

After a Critical Incident investigation, NOPD FIT makes a determination whether the officers involved in the critical incident violated any criminal laws or any administrative (internal NOPD policy) laws.

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<sup>46</sup> *Graham v. Connor*, 490 U.S. 386 (1989).

<sup>47</sup> Louisiana Revised Statutes 14:18, et. seq.

According to the NOPD PIB, in 2014, 17 Critical Incidents resulted in the criminal and administrative dispositions denoted in the following table.

**Figure 37:** Determinations regarding law and policy.

No. of Criminal Investigations of NOPD Officers Referred to District Attorney	No. of Incidents involving NOPD Officers Accepted and Rejected by District Attorney	NOPD Administrative Disposition Regarding the Appropriateness of the Use of Deadly Force
2 Referred to DA 15 Not Referred to DA 0 Pending	2 Rejected 0 Accepted	1 Case with an Administrative Violation 6 Cases with no Administrative Violations 9 Pending 1 Unable to Determine

### Critical Incidents, PPEP, and Officer Histories

In 2014, the OIPM found that only one officer involved in OIS incidents was required to attend PPEP training the year the incident occurred. Twenty-eight of the officers involved in OIS incidents had a significant complaint and use of force history over the last five years.<sup>48</sup>

<sup>48</sup> An officer has a significant history if (in this context) he/she has more than five complaints or more than five Uses of Force incidents within the five-year period (preceding the OIS). The PIB's database only contains information about uses of force since 2011.

## 2014 USE OF FORCE INCIDENTS

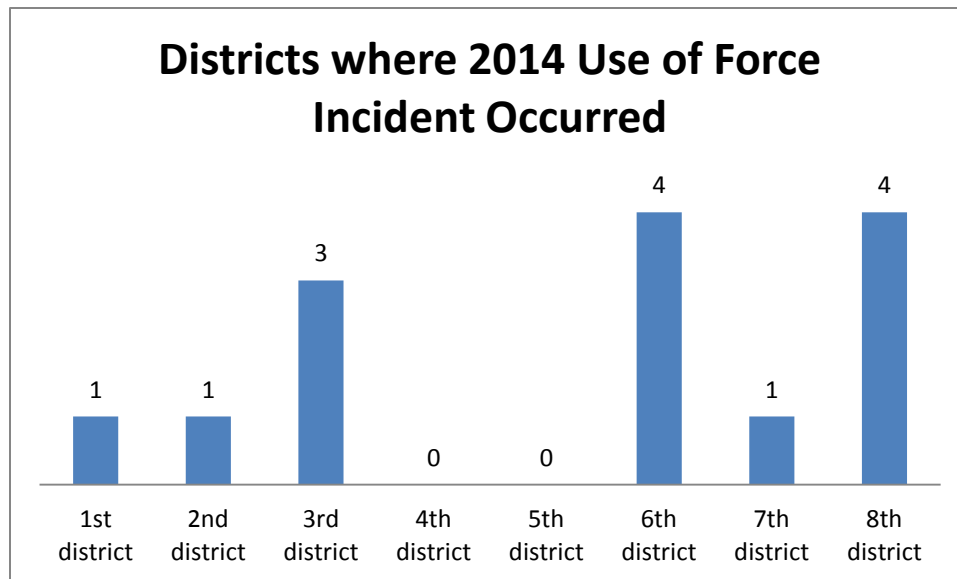
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The NOPD Command Desk is required to notify the OIPM of Critical Incident cases. On occasion, the NOPD Command Desk calls to notify the OIPM of an incident where force was used but which could not be defined as a Critical Incident. A Critical Incident includes: (1) all uses of deadly force; (2) all uses of force resulting in an injury requiring admission to a hospital; (3) all head strikes with an impact weapon, and (4) all in custody deaths. The cases which the NOPD Command desk calls the OIPM about, where the NOPD uses force but does not amount to a Critical Incident, the OIPM identifies as Use of Force incidents. The OIPM does not respond to the scene of a Use of Force incident which is not considered a Critical Incident. However, the OIPM does collect limited data on Use of Force incidents which are not Critical Incidents. The OIPM collected data on 14 Use of Force incidents.

### The NOPD Districts and Bureaus of officers involved in Use of Force

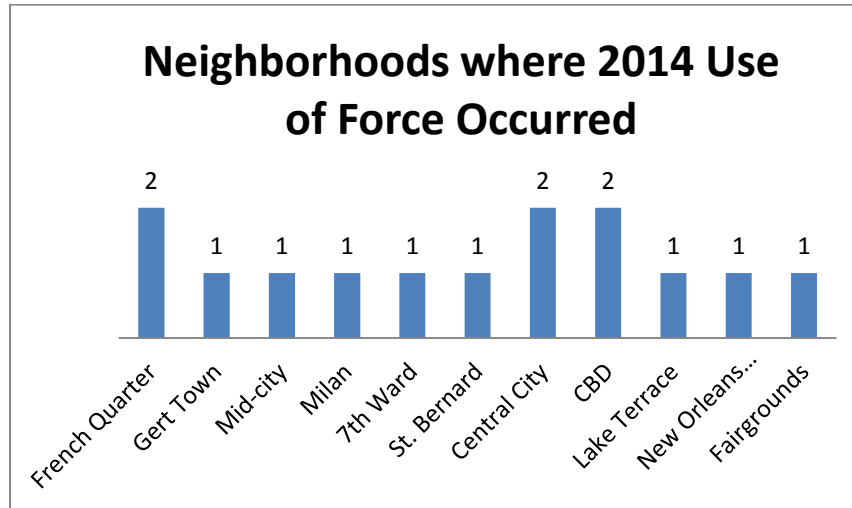
Figure 38 provides the various NOPD districts and where the Use of Force occurred.

**Figure 38:** Districts.



## Neighborhoods Where the Use of Force Incident Occurred

Figure 39: Neighborhood where 2014 use of force occurred.



## Types of Use of Force incidents

Figure 40 provides the type of force used in each reported non Critical Incident Use of Force Incident.

Figure 40: Types of force.

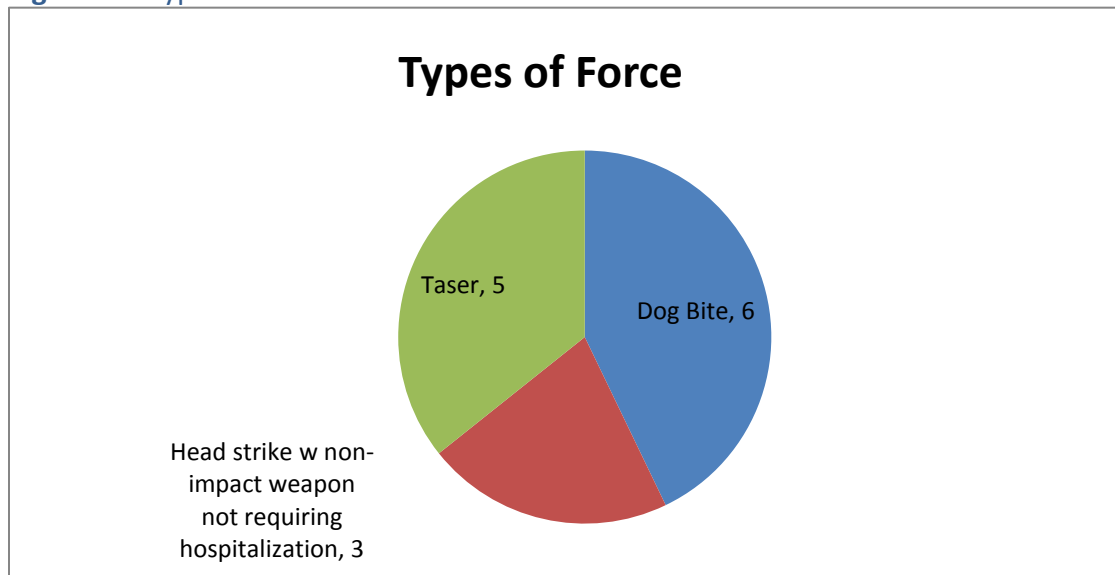


Figure 41 contains civilian demographics from the non- Critical Incident Use of Force cases. There may be more than one civilian per incident.

**Figure 41:** Demographics for civilians involved in use of force Incidents.

Race/Gender	<20 Years of Age	20 to 29 Years of Age	30 to 39 Years of Age	40 to 49 Years of Age	>50 Years of Age	Unknown Age	Total
Asian Male	0	0	0	1	0	0	1
Black Male	3	1	1	1	0	2	8
Unknown Male	0	0	1	0	0	1	2
Black Female	0	0	0	0	0	2	2
Unknown Race and Unknown Gender	0	0	0	0	0	1	1
<b>Total</b>	<b>3</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>6</b>	<b>14</b>

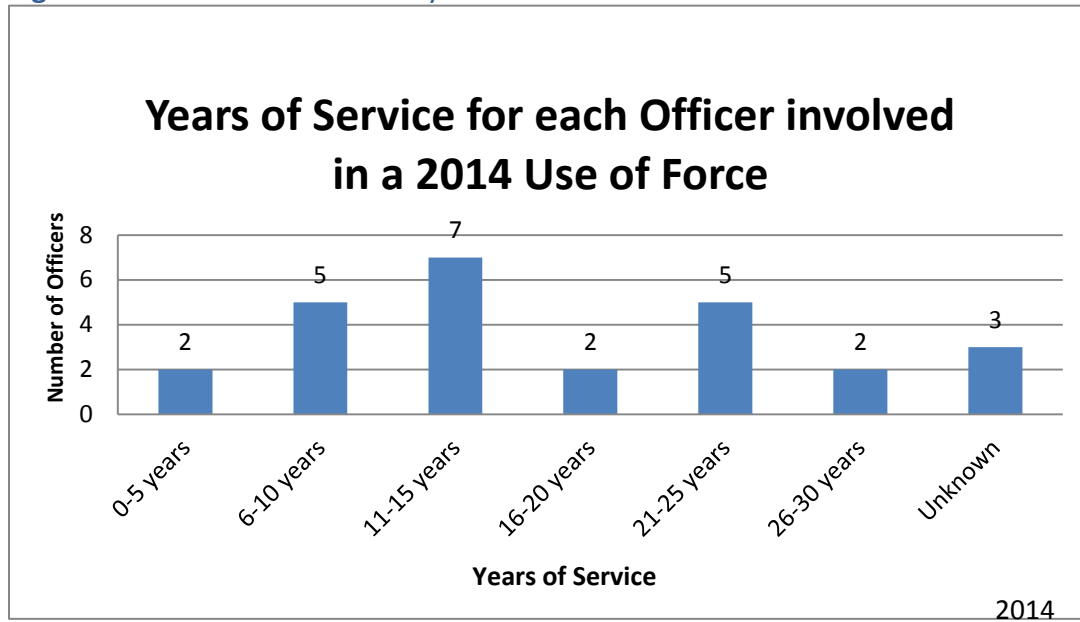
Figure 42 contains officer demographics from non- Critical Incident Use of Force cases. There may be more than one officer per incident.

**Figure 42:** Demographics for officers involved in use of force incidents.

Race/Gender	<20 Years of Age	20 to 29 Years of Age	30 to 39 Years of Age	40 to 49 Years of Age	>50 Years of Age	Unknown	Total
Black Male	0	0	2	7	1	0	10
White Male	0	0	6	4	2	0	12
White Female	0	0	1	0	0	0	1
Unknown Race, Unknown Gender	0	0	0	0	0	3	3
<b>Total</b>	<b>0</b>	<b>0</b>	<b>9</b>	<b>11</b>	<b>3</b>	<b>3</b>	<b>26</b>

Figure 43 contains the years of service for officers who were involved in a Use of Force incident.

**Figure 43:** Use of force – officer years of service.



## 2014 COMMENDATIONS

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In 2014, the OIPM received six commendations regarding positive conduct by NOPD officers from members of the public.

## 2014 COMMUNITY ENGAGEMENT

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With events like the shooting death of Michael Brown and the death by asphyxiation of Eric Garner, the entire country has been engaged in discussions of police accountability and police reform. The OIPM recognizes its obligation to contribute to the larger discussion and to learn about and employ the most effective practices available in the police oversight field. Thus, 2014's outreach focused, not only on local outreach but also on national and international discussions about the future of policing and police reform.

### Local Community Partnerships

The OIPM partners with groups such as the LGBTQ (Lesbian, Gay, Bisexual, Transsexual, Queer) advocacy group BreakOUT!, the women and family advocacy group, Women With a Vision and the crime victims' advocacy group, Silence is Violence. The OIPM community partnerships facilitate complaint intake, rights and responsibilities trainings and even public input on NOPD policies. We have also strengthened partnerships with the American Friends Service Committee, the Justice and Accountability Center, Human Rights Watch, the Urban League of New Orleans, Justice and Beyond, and the National Lawyers Guild. This year the OIPM staff acted as legal observers at several events, including the city's actions to clear homeless people from the areas under the I-10 overpass.

On a regular basis, the OIPM works with a number of agencies and community groups to deliver Rights and Responsibilities trainings to the public. These agencies and community groups include the Orleans Parish Sheriff's Office Day Reporting Center, Liberty's Kitchen and others. Rights and Responsibilities trainings teach members of the public how best to conduct themselves during a police encounter and how to recognize and report police misconduct.



The OIPM's Spanish-speaking staff has also conducted significant outreach to the Spanish-speaking New Orleans Community. The OIPM has made some inroads with the Vietnamese community, despite language issues.

The OIPM participated in 82 outreach events in 2014, including presenting recurring Rights and Responsibilities trainings at the Day Reporting Center and Liberty's Kitchen. The OIPM continued to employ social media as a means of communication in 2014. OIPM staff also appeared in print, on the internet, on radio, and on television, including WBOK, WWL radio, la Mega, WWL TV 4 News, WDSU, FOX 8 News, The New Orleans Advocate, the Times-Picayune, WTUL, the Lens NOLA blog, and the New Orleans Tribune in 2014.

### **National and International Engagement**

As part of the U.S. Department of State/New Orleans Citizen Diplomacy Council programming, the OIPM has hosted and presented to several groups of government and nonprofit leaders learning about police oversight.

In addition, the Open Society Foundation sponsored an OIPM employee's trip to the My City Real World Conference in Belfast, Ireland. There, the OIPM met with the Northern Ireland Police Ombudsman and community groups from across Europe and the US to discuss profiling and police accountability issues. This trip was part of the OIPM's ongoing partnership with BreakOut!.

The OIPM has also engaged more deeply in the National Association for Civilian Oversight of Law Enforcement (NACOLE). NACOLE also recognizes the growing need for more police accountability institutions. To see more of what NACOLE has done to help communities like Ferguson, Missouri that are struggling with acute police accountability problems, check NACOLE's website.<sup>49</sup>

The OIPM has contributed to NACOLE's work by participating in the Presidential Council on 21<sup>st</sup> Century Policing. All this work is part of a growing international movement of police accountability activists, nonprofits, government and civil society groups.

A large part of the recent police accountability discussion has focused on equipment and technology. The OIPM has participated in several public and private conversations on the topic

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<sup>49</sup> <http://www.devinjamesgroup.com/the-city-of-ferguson-announces-strategic-engagement-with-nacole/> or [www.nacole.org](http://www.nacole.org).





of body cameras. In all these discussions, the OIPM has pointed out that the equipment is only as effective as the accountability system accompanying it. The OIPM wants to share lessons learned from our experiences here in New Orleans, but more importantly, the office is helping to develop standards and best practices in policing.



## APPENDICES

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### Appendix A: 2014 OIPM Community Interactions

Date	Type	Sponsor	Description
1/7/2014	Presentation	Ethics Review Board	Quarterly Presentation to Ethics Review Board
1/28/2014	Meeting	Police Association of New Orleans	Discussion of Officer Issues
1/29/2014	Meeting	Fraternal Order of Police	Discussion of Officer Issues
1/29/2014	Meeting	Police Association of New Orleans	Discussion of Officer Issues
2/18/2014	Know Your Rights Presentation	Liberty's Kitchen	Know Your Rights Presentation
2/19/2014	Meeting	Police Association of New Orleans	Discussion of Officer Issues
2/19/2014	Meeting	Police Association of New Orleans	Discussion of Officer Issues
3/11/2014	Presentation	Ethics Review Board	Quarterly Presentation to Ethics Review Board
3/19/2014	Radio Program	La Mega 107.5	Presentation about OIPM
4/30/2014	Presentation	New Orleans City Council - Criminal Justice Committee	Hearing
4/30/2014	Training	NOPD	Training for Supervisors on Professional Performance



			Enhancement Program
5/21/2014	Presentation	Ethics Review Board	Quarterly Presentation to Ethics Review Board
6/2/2014	NOPD Officers' Roll Call Presentation	Outreach about Police Community Mediation	3rd district of NOPD
6/3/2014	NOPD Officers' Roll Call Presentation	Outreach about Police Community Mediation	8th District of NOPD
6/4/2014	NOPD Officers' Roll Call Presentation	Outreach about Police Community Mediation	1st District of NOPD
6/5/2014	NOPD Officers' Roll Call Presentation	Outreach about Police Community Mediation	7th District of NOPD
6/6/2014	NOPD Officers' Roll Call Presentation	Outreach about Police Community Mediation	2nd District of NOPD
6/8/2014	NOPD Officers' Roll Call Presentation	Outreach about Police Community Mediation	3rd district of NOPD
06/01/14 - 06/08/14	Training	OIPM	Specialized Training for Police/Community Mediators
6/9/2014	NOPD Officers' Roll Call Presentation	Outreach about Police Community Mediation	4th District of NOPD
6/9/2014	NOPD Officers' Roll Call	Outreach about Police Community	2nd District of NOPD



	Presentation	Mediation	
6/10/2014	NOPD Officers' Roll Call Presentation	Outreach about Police Community Mediation	5th district of NOPD
6/10/2014	NOPD Officers' Roll Call Presentation	Outreach about Police Community Mediation	6th District of NOPD
6/11/2014	NOPD Officers' Roll Call Presentation	Outreach about Police Community Mediation	8th District of NOPD
6/11/2014	NOPD Officers' Roll Call Presentation	Outreach about Police Community Mediation	1st District of NOPD
6/12/2014	NOPD Officers' Roll Call Presentation	Outreach about Police Community Mediation	4th District of NOPD
6/15/2014	Meeting	Congress of Day Laborers	Discussion of Policing
6/15/2014	Training	NOPD	Ethics Training Academy Recruits
6/17/2014	Consent Decree Monitor Public Meeting	Office of Consent Decree Monitor (OCDM)	Public Meeting on Consent Decree Progress
6/18/2014	Consent Decree Monitor Public Meeting	OCDM	Public Meeting on Consent Decree Progress
6/23/2014	Travel to Northern Ireland For My City Real World Conference on Ethnic Profiling	Funded by the Open Society Institute	Discuss Racial Profiling as a Global Issue and innovative strategies to



	and Police Reform		combat it
06/25/14- 06/27/14	Conference	Open Society Institute	Justice Fellows Conference
6/24/14- 6/28/14	Training	OIPM	Training for Police/Community Mediators
6/30/2014	NOPD Officers' Roll Call Presentation	Outreach about Police Community Mediation	6th District of NOPD
7/2/2014	NOPD Officers' Roll Call Presentation	Outreach about Police Community Mediation	4th District of NOPD
7/6/2014	Villages of the East Coalition Meeting	Vietnamese American Young Leaders Association (VAYLA)	Discussion of Policing and Neighborhood-Specific Issues
7/15/2014	Training	NOPD	Ethics Training - Part of Police Academy Training
07/18/14 - 7/19/14	Vietnamese American Young Leaders Association Youth Social	VAYLA	Tabling at event
7/24/2014	Meeting	Fraternal Order of Police	Discussion of Officer Issues
7/26/2014	Latino Heritage festival	Puentes	Tabling at event
7/29/2014	Meeting	Police Association of New Orleans	Discussion of Officer Issues
8/7/2014	Training	OIPM	In-Service Training for



			Police/Community Mediators
8/12/2014	Know Your Rights Presentation	New Orleans Day Reporting Center	Know Your Rights Presentation
8/19/2014	Training	Women with a Vision	Complaint Intake Training
8/21/2014	Tabling	City of New Orleans	Budgeting for Outcomes Forum
8/22/2014	Know Your Rights Presentation	Eden House	Know Your Rights Presentation
8/24/2014	Tabling	Council District D	Budgeting for Outcomes Forum
8/26/2014	Know Your Rights Presentation	New Orleans Day Reporting Center	Know Your Rights Presentation
8/26/2014	Tabling	Council District B	Budgeting for Outcomes Forum
9/2/2014	Presentation	Ethics Review Board	Quarterly Presentation to Ethics Review Board
9/3/2014	Tabling	Tulane University	Tulane Public Interest Law Volunteer/Job Fair
9/16/2014	Training	OIPM	In-Service Training for Police/Community Mediators
9/14/2014-9/18/2014	Conference	National Association For Civilian Oversight of Law Enforcement	Law Enforcement Oversight Conference



9/29/2014	Reunión de Vecinos Latinos	Puentes	Presentation about OIPM
9/29/2014	Training	OIPM	In-Service Training for Police/Community Mediators
10/1/2014	Know Your Rights Presentation	Women with a Vision Diversion Program	Know Your Rights Presentation
10/2/2014	Know Your Rights Presentation	New Orleans Day Reporting Center	Know Your Rights Presentation
10/2/2014	Meeting	Foundation for Louisiana	Criminal Justice Working Group
10/2/2014	Panel Presentation	Federalist Society of Tulane Law School	Panel Discussion of Police Accountability
10/3/2014	Know Your Rights Presentation	Liberty's Kitchen	Know Your Rights Presentation
10/8/14 - 10/11/14	Conference	Association for Conflict Resolution	Conference on Mediation
10/14/2014	Know Your Rights Presentation	New Orleans Day Reporting Center	Know Your Rights Presentation
10/14/2014	Tabling	Night Out Against Crime	Historic Faubourg Tremé Neighborhood Association
10/18/2014	Kim Groves Memorial and Presentation of Municipal Proclamation	Jasmine Groves, OIPM and Councilperson Jason Williams	Public Event Remembering Kim Groves and Others Lost to Police Misconduct
10/20/2014	Public Forum on Retaliation	OIPM and City	Public Forum inviting



		Council	officer and community input into NOPD's new anti-retaliation policy
10/24/2014	Presentation	Human Rights Watch	Discussion of Human Rights Issues in New Orleans
10/27/2014	Meeting	Urban League of New Orleans	Criminal Justice Working Group
10/29/2014	Conference Call	Police Association of New Orleans	Discussion of Retaliation and Safe Space for Officer Reporting
11/8/2014	Training	OIPM	In-Service Training for Police/Community Mediators
11/11/2014	Education about Police Oversight to Government and Nonprofit Leaders from African Nations	New Orleans Citizen Diplomacy Council	Education on the mechanics and impact of police oversight
11/11/2014	Know Your Rights Presentation	Liberty's Kitchen	Know Your Rights Presentation
11/11/2014	Know Your Rights Presentation	Liberty's Kitchen	Know Your Rights Presentation
11/17/2014	Presentation	Ethics Review Board	Quarterly Presentation to Ethics Review Board
12/3/2014	Reception	Business Council of New Orleans	Reception
12/5/2014	Panel Presentation	National Lawyers Guild	Continuing Legal Education on Consent Decrees

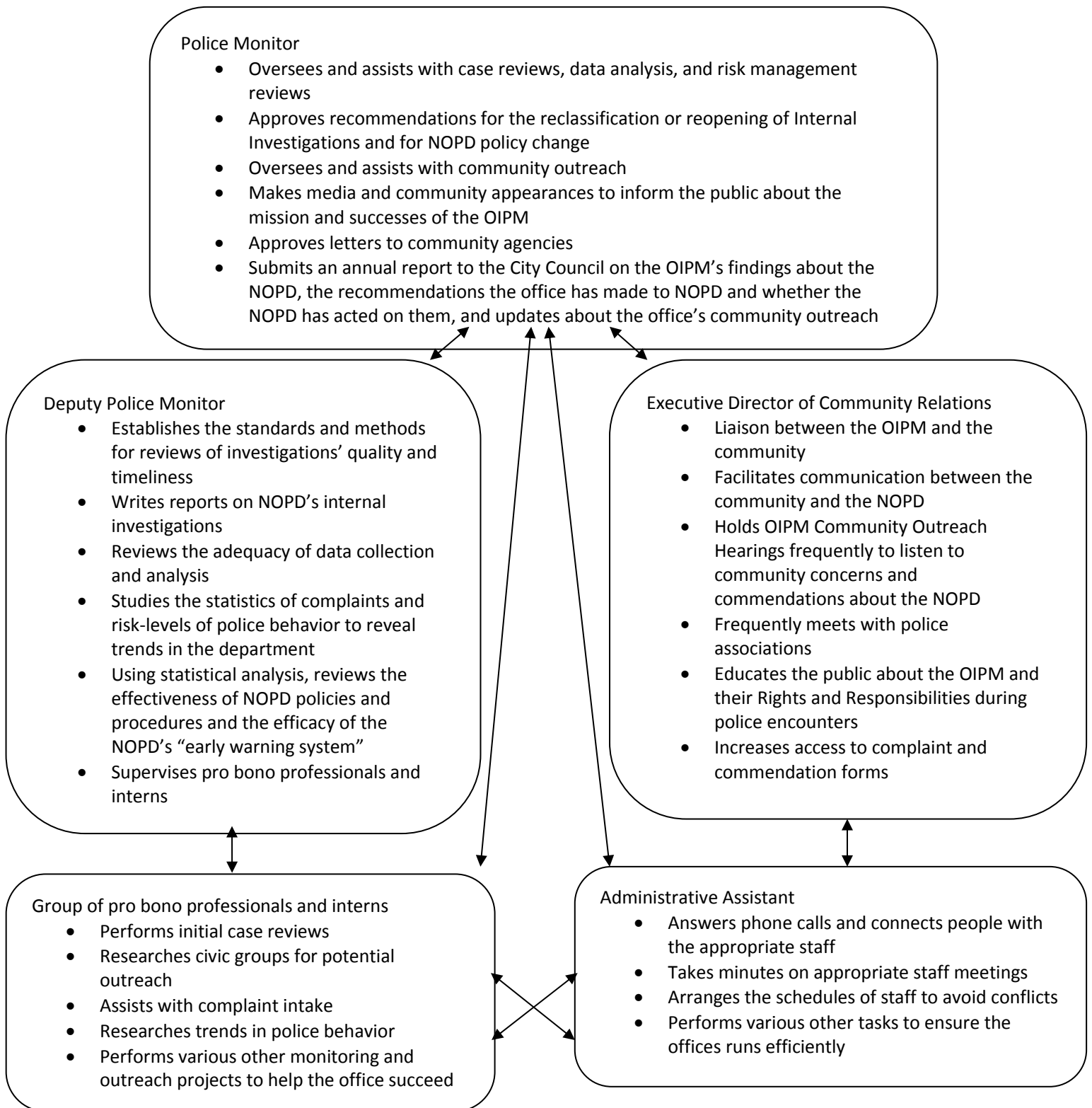




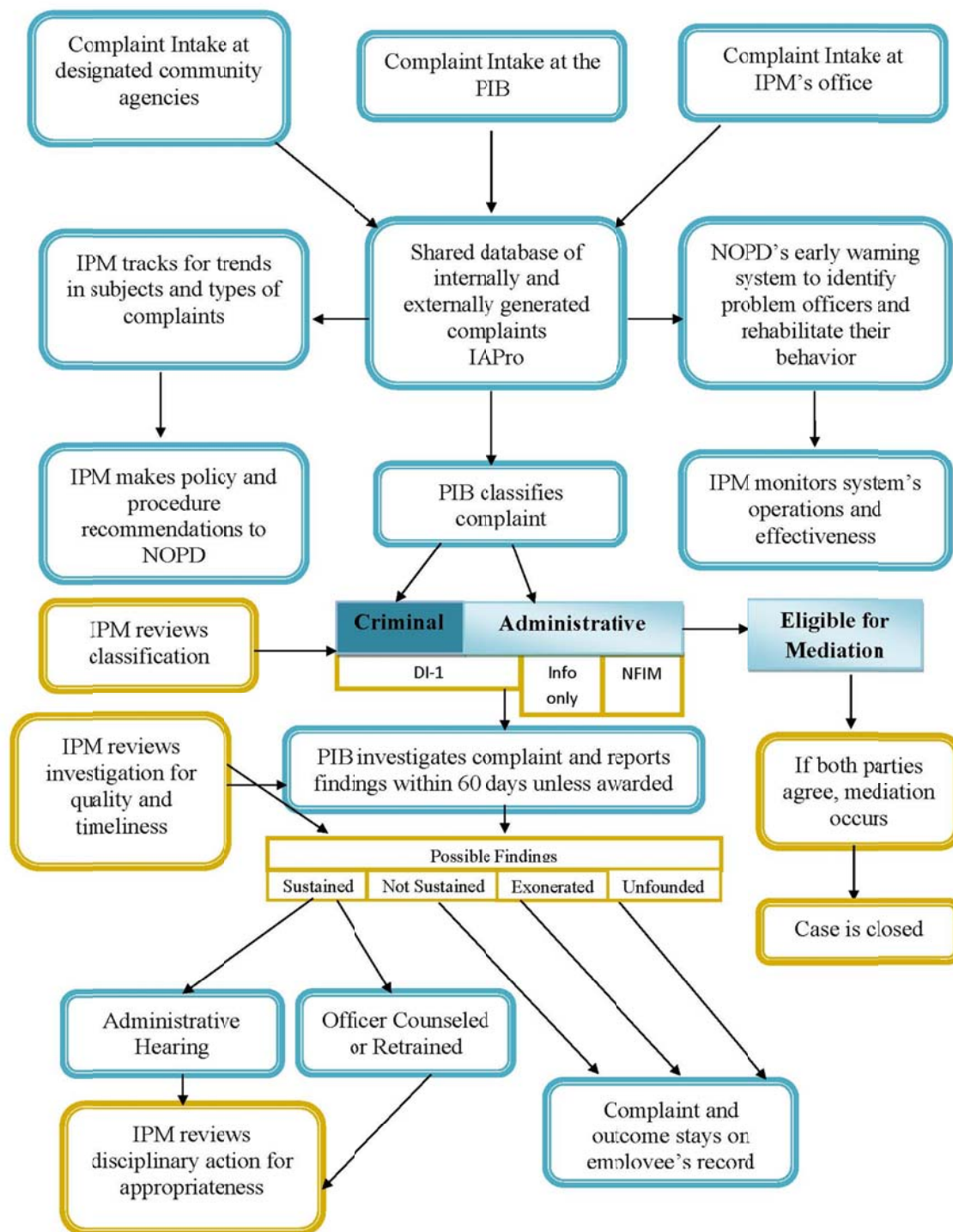
12/8/2014	Meeting	Ethics Review Board	Quarterly Presentation to Ethics Review Board
12/9/2014	Know Your Rights Presentation	New Orleans Day Reporting Center	Know Your Rights Presentation
12/11/2014	Education about Police Oversight to Government and Nonprofit Leaders from South Korea	New Orleans Citizen Diplomacy Council	Education on the mechanics and impact of police oversight
12/15/2014	Presentation at Membership Meeting	American Friends Service Committee	Presentation about NOPD and NOPD Reform
12/18/2014	Los Mundos Unidos Meeting	VAYLA	Discussion of Policing
12/18/2014	Training	OIPM	In-Service Training for Police/Community Mediators



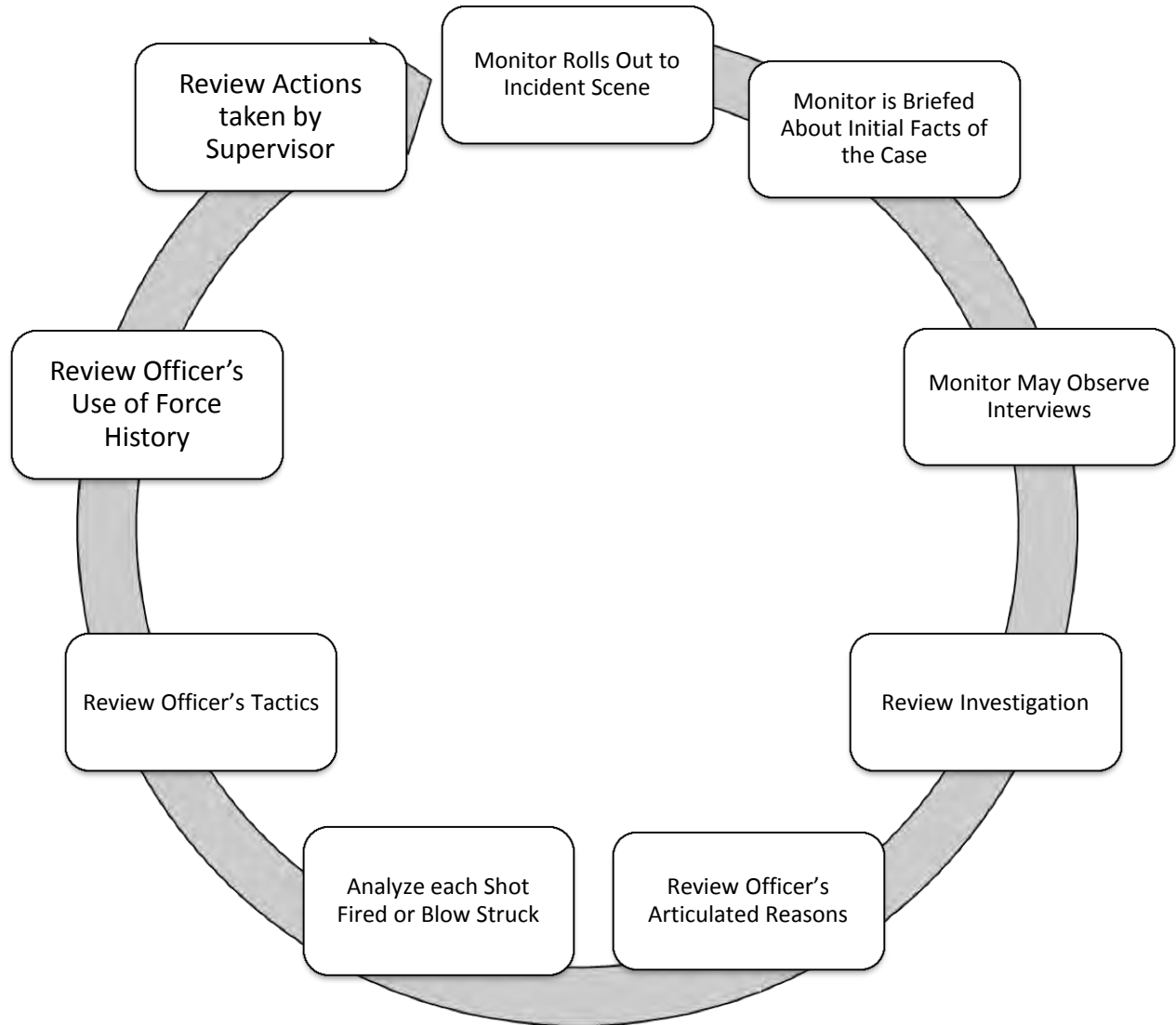
## Appendix B: Overview of OIPM Roles



## Appendix C: Overview of Complaint Process



## Appendix D: Overview of OIPM Critical Incident Monitoring Process



## Appendix E: OIPM Disciplinary Hearing Investigation Analysis Criteria

IPM No: \_\_\_\_\_ PIB Control No : \_\_\_\_\_

1<sup>st</sup> level reviewer (write answer in 1<sup>st</sup> Lvl box)  
2<sup>nd</sup> Lvl box)

2<sup>nd</sup> level reviewer (write answer in

Name : Please Select One

Name : Please Select One

Date:

Date:

(For every comment write your initials and the date)

### I. Complaint Administration

#### A. Complainant(s) Name(s) (Last then First):

<i>Name</i> (Last then First)	<i>Employee No.</i> (if applicable)	<i>Rank</i> (if applicable)	<i>District</i> (if applicable) (at time of occurrence)	<i>Assignment Type</i> (if applicable) (Supervisor <b>or</b> Patrol <b>or</b> Specialized Assignment)

#### B. Accused Employee(s)

<i>Name</i> (Last then First)	<i>Employee No.</i> (if applicable)	<i>Rank</i> (if applicable)	<i>District</i> (if applicable) (at time of occurrence)	<i>Assignment Type</i> (if applicable) (Supervisor <b>or</b> Patrol <b>or</b> Specialized Assignment)



C. Identify any missing involved officers.

<i>Name</i> (Last then First)	<i>Employee No.</i> (if applicable)	<i>Rank</i> (if applicable)	<i>District</i> (if applicable) (at time of occurrence)	<i>Assignment Type</i> (if applicable) (Supervisor <b>or</b> Patrol <b>or</b> Specialized Assignment)

D. Entity receiving the complaint.

1. IPM
2. PIB
3. NOPD District
4. MCC
5. Other

F. Name & Employee No. of Investigating Officer (I/O) person:

G. Name & Employee No. of Approving Supervisor of I/O:

Quality of Investigation Review

1. Did the I/O keep a chronological record of his/her progress in the investigation?

**Comments:** Necessary to determine the investigative steps taken by the I/O.

A. Yes

1 <sup>st</sup>	2 <sup>nd</sup>
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- B. No (comment required)
- C. UTD, Chronological Record was missing from the case file
- D. N/A, an investigation was not conducted

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2. Did the communication's division's record of the timeframe match with the witnesses and officers?

**Comments:** Does the communication's record of timeframe match those of reports, officers, and witnesses?

- A. Yes
- B. No (comment required)
- C. UTD, records missing from the case file

1 <sup>st</sup>	2 <sup>nd</sup> B
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3. Was the investigation completed within the required timeframe?

**Comments:** The administrative disciplinary investigation should be completed within sixty (60) days, or within the extended time frame as approved by the Civil Service Commission for the City of New Orleans, or as agreed to via written agreement between the accused and the appointing authority.

- A. Yes
- B. No (comment required)

1 <sup>st</sup>	2 <sup>nd</sup>
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4. Did the I/O prepare and forward correspondence to the complainant as required?

**Comments:** Including initial correspondence (sent immediately) and updates (every 45 days).

- A. Yes
- B. No (comment required)

1 <sup>st</sup>	2 <sup>nd</sup>
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**5. Did the I/O address each section of the investigative report, documenting all facts?**

**Comments:** The investigator shall utilize an NOPD Form 105 (Interoffice Correspondence) to document the formal investigation. The investigator shall address each of the following areas using the following headings:

- i. INTRODUCTION
- ii. INVESTIGATION
- iii. SUMMARY
- iv. RECOMMENDATION(S)
- v. EXHIBITS

- A. Yes
- B. No (comment required)

1 <sup>st</sup>	2 <sup>nd</sup>
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**6. Did the I/O reach a logical conclusion and prepare a recommendation?**

**Comments:**

- A. Yes
- B. No (comment required)

1 <sup>st</sup>	2 <sup>nd</sup>
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**7. Did the I/O submit a report to his/her ICO or designee by the investigator's assigned due date?**

**Comments:** The date of the investigative report shall be the date the completed report is submitted to the investigator's ICO or designee for approval.

- A. Yes
- B. No (comment required)

1 <sup>st</sup>	2 <sup>nd</sup>
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**8. Was there a conscious or subconscious bias in the department member's report?**

**Comments:** Review I/O's questions and comments to see if a particular tendency or inclination to skew questions in favor of the accused officer is present.

- A. Yes (comment required)
- B. No

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9. Was the complainant and/or witness discredited by the investigator solely based on the complainant's criminal history?

**Comments:** The Louisiana Code of Evidence gives great latitude to attorneys in their attacks on a witness's credibility and to jurors in their assessment of a particular witness's credibility. See La. Code Evid. Ann. Art. 607. In general, witnesses may be examined on "any matter having a reasonable tendency to disprove the truthfulness or accuracy of his testimony." Id. Extrinsic evidence is admissible so long as it helps to illustrate a "witness' bias, interest, corruption, or defect of capacity." Id. Prior inconsistent statements and evidence contradicting a witness's testimony are admissible unless the court determines that the probative value of the evidence in question is "substantially outweighed by the risks of undue consumption of time, confusion of the issues, or unfair prejudice." Id.

The Comments to the Louisiana Code of Evidence suggest that the general rule for determining the admissibility of evidence in this context is whether it is "logically relevant in meeting the thrust of the attack on credibility." La.Code Evid. Ann. art. 607(d). A witness's prior arrests, for example, are admissible only to the extent that they reveal a "potential for bias" stemming from that particular arrest (State v. Roberson, App. 2 Cir.1984, 448 So.2d 789), and the questioning may not extend into "far-reaching and irrelevant matters which might prejudice the rights of the accused." (State v. Wheeler, App. 4 Cir.1994, 644 So.2d 1089, 1993-1385 (La.App. 4 Cir. 10/13/94)).

- A. Yes (comment required)
- B. No
- C. N/A, complainant's criminal history was not considered
- D. UTD

1 <sup>st</sup>	2 <sup>nd</sup>
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**10.** Was the witness discredited solely on the basis of prior associations with the complainant?

- E. Yes (comment required)
- F. No
- G. N/A, complainant's criminal history was not considered
- H. UTD

1 <sup>st</sup>	2 <sup>nd</sup>
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**11.** Did the I/O make reasonable efforts to identify, locate, interview and audio tape all relevant witnesses that were noted in the investigation, whether mentioned by the complainant, accused employee or other witnesses?

**Comments:** The I/O shall "[i]nterview and audio tape the statements of the complainant, any principal, and every known witness, both for and against the accused employee. (For non-department employees, a written statement, signed and dated by the individual giving the statement, may be substituted for an audio taped statement. However, only audio taped statements shall be taken from department employees.)"

- A. Yes
- B. No (comment required)
- C. N/A, interview was not appropriate for this investigation
- D. UTD, no documentation provided as to the I/O's efforts

1 <sup>st</sup>	2 <sup>nd</sup>
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**12.** Did the I/O collect or make reasonable efforts to collect all relevant physical, electronic, documentary, or scientific evidence and property, when applicable, and maintain chain of custody records?

Comments: (e.g., photographs, Arrest Reports, Use of Force Reports, Daily Field Activity Reports, medical reports, diagrams, etc.)

- A. Yes
- B. No (comment required)
- C. UTD (no documentation provided as to I/O's efforts)

1 <sup>st</sup>	2 <sup>nd</sup>
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**13.** Were material inconsistencies between complainant's statements, witnesses' statements, and the accused employee's statements resolved by the I/O?

**Comments:** Document any inconsistencies you find that were not addressed in the investigation. Note the issues and note the areas on the recordings (tape number and tape counter) in which the inconsistencies take place.

- A. Yes
- B. No (describe inconsistencies and comment)
- C. N/A, statements were consistent **or** no statements were taken

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**14. Were material inconsistencies between statements and physical evidence resolved by the I/O?**

Comments: Document any inconsistencies you find between statements and the physical evidence that were not addressed in the investigation

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- A. Yes
- B. No (describe inconsistencies and comment)
- C. N/A, there were no inconsistencies between witness statements and the physical evidence **or** there was no physical evidence and/or no statements were taken

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**15. Overall, did the I/O conduct a complete investigation and thoroughly exhaust all leads?**

Comments:

- A. Yes
- B. No (comment required)

1 <sup>st</sup>	2 <sup>nd</sup>
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## Interviews

**16. Were all statements, except those that indicate a refusal to be taped, tape-recorded?  
Note tape number.**

**Comments:** Most interviews should be completed recorded, unless recording is refused or unavailable.

- A. Yes
- B. No (indicate name of the witness and reason provided)
- C. UTD, tape could not be located or there were no recorded interviews.

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**17. Did the review of the tape-recorded interviews reveal an incomplete interview or that there was any discussion with witnesses that was not recorded?**

**Comments:** (i.e. a statement gets cut off, a statement begins midway, there are unusual breaks/pauses in the flow of the recording). Note areas on the recordings (tape number and tape counter).

- A. Yes (comment required)
- B. No

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C. UTD, tape could not be located

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**18. Did the review of the tapes reveal interviews with witnesses who were not denoted elsewhere in the investigation?**

**Comments:** Note the witnesses and note the areas on the recordings (tape number and tape counter) or in the investigation in which they were first introduced.

- A. Yes (comment required)
- B. No
- C. N/A (comment required)
- D. UTD

1 <sup>st</sup>	2 <sup>nd</sup>
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**19. Do the facts as represented in the investigation fully, fairly, and accurately summarize the actual tape-recorded statements?**

Comments: Note the issues and note the areas on the recordings (tape number and tape counter) in which the issues take place. Document tape number and inaccuracies between write-up of statements and the tape recorded statements.





- A. Yes
- B. No (document tape number and inaccuracies between paraphrased statements and the tape recorded statements)
- C. UTD, tape could not be located or there were no recorded interviews.

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**20. If inaccuracies in the write-up of recorded statements exist, whom do they favor?**

- A. Complainant (comment required)
- B. Accused Employee (s) (comment required)
- C. N/A, no inaccuracies discovered
- D. UTD.

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**21. Did the review of the tape-recorded interviews reveal inappropriate leading/suggestive questioning?**

**Comments:** Note the issues and note the areas on the recordings (tape number and tape counter) in which the issues take place.

- A. Yes (comment required)
- B. No
- C. UTD, tape could not be located or interviews were not recorded.

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**22. Did the review of the tape-recorded interviews reveal a discourteous, confrontational or hostile tone/demeanor by the interviewer?**

**Comments:** Note the issues and note the areas on the recordings (tape number and tape counter) in which the issues take place.

- A. Yes (comment required)
- B. No
- C. UTD, tape could not be located

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**23. Did the review of the tape-recorded interviews reveal a failure to ask logical follow-up questions?**

**Comments:** Note the issues and note the areas on the recordings (tape number and tape counter) in which the issues take place.

- A. Yes (comment required)
- B. No
- A. UTD, tape could not be located

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**24. Were any additional allegations raised during the tape-recorded interviews?**

**Comments:** Note the allegations and note the areas on the recordings (tape number and tape counter) in which they were raised.

- A. Yes (comment required)
- B. No
- C. UTD, tape could not be located

1 <sup>st</sup>	2 <sup>nd</sup>
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**25. How were additional allegations handled?**

**Comments:** Note how and where the allegations are addressed. Included PIB #, if new complaint generated.

- A. Supplemental Investigation
- B. New complaint form generated
- C. Not addressed (comment required)
- D. N/A, no additional allegations raised
- E. UTD

1 <sup>st</sup>	2 <sup>nd</sup>
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**26. Were the additional allegations handled appropriately?**

Comments: Note why handed inappropriately.

- A. Yes
- B. No (comment required)
- C. N/A, no additional allegations raised
- D. UTD, tape could not be located

1 <sup>st</sup>	2 <sup>nd</sup>
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**27. Were all the allegations listed on the complaint form addressed by the investigation?**

**Comments:** Even if not addressed by investigation, review to see if all allegations were disposed of within the body of the investigation, in some manner.

- B. Yes
- C. No (comment required)

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**28. Was applicable policy or law covered in each NOPD member's interview?**



Comments: Note applicable policies and law covered during the interview.

- A. Yes
- B. No (comment required)
- C. UTD, tape could not be located or there were no recorded interviews.

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**29.** Was the investigator's demeanor or intonation of voice different towards citizens than towards NOPD members?

Comments: Note I/O's comments and note the areas on the recordings (tape number and tape counter) in which the comments take place.

- A. Yes (comment required)
- B. No
- C. UTD, tape could not be located or there were no recorded interviews.

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## ADDITIONAL COMMENTS OR RECOMMENDATIONS

*Supervisor Comments:*

